G.R.S.11]

1907.10

GENERAL AND REVENUE SECRETARIAT

(Legislation)

P-154

NOTES.

File No. 26

FILE HEADING.

The Village Courts Regulation

From

No.	Dated	Received

Diary No.	Enclos.	Spare Copies	Serial No.

BRIEF ABSTRACT OF LETTER.

NOTES AND ORDERS.

GPB—30,000—3-4-07.

G. R. S. 12]
General and Revenue Secretariat.

File No. 6 of 1909-10.

Serial No.

Draft Bill is sent for approval.

18/2/10.

(1) Please return a typed Copy as revised

also a Copy of the Act. with necessary corrections

12/3/10.

Typed Copy of the Bill with draft of statement of object and reasons for the Bill and letter to the Residency is submitted. Copies of the Act have been applied for and a Copy thereof with the necessary corrections made therein will be submitted later on.

26/3/10 26/3/10

(1) The draft Bill and the Statement of Objects & Reasons & the D.O. to the Govt may be approved. The Statement of objects and reasons explains fully the the departures made from the Madras Act of 1909.

(2) Under the Madras Act legal

NOTE.—Contn. sheet.

GPB—50,000—13-5 08

Serial No.

practicemen are debarred from appearing before Village Courts but under the draft Bill they will be This provision has been taken from our old draft of 1892 and ~~under~~ inserted as first finally directed

(3) The Chief Judge ~~Saidabad~~ has recorded on p. 17 of the notes that he would have some suggestions to on the draft Bill As that Bill opinions on the Bill will be invited at the ~~Select~~ Committee Stage and as the Bill follows the Madras Act pretty closely, it is a question whether any reference to the Ch. J. is necessary at this Stage

29/8/10.

The papers seem to be all right. The Chief Judge may be consulted about the draft bill at this stage

2nd C)

3285

10 Years.

16/4/10

11

See pencil notes on bill

NOTE—Contn. sheet.

BPG—55,000—27-4-09

16/4

19/4/10.

12/4/10

14/4/10.

G. R. S. 12]
General and Revenue Secretariat.

Legis File No. 26 of 1909-10

Serial No.

Registrar, Chief Court
Submitted with a draft to the ~~Chief Judge~~

SW
20/4/10 21/4 13 Issued

Returned ~~Have a Copy~~ of the Statt of Objects & Reasons has also to be sent

SW
21/4/10

No J 3460 dated 13/5/10
To the Registrar Chief Court
Requests him to obtain and forward the opinion of the Chief Judge on the Mysore Village Courts Bill

2 No 4735/282 dated 18/19/5/10
From the Registrar Chief Court
Forwards a copy of the Chief Judge's Note on the Bill.

Submitted
SW
23/5/10 25/5 14. Regarding the learned Chief Judge's note it has to be remarked: —

1) Omitted the definition of village Munsiff because it was implied in the wording of clause 4 of the draft, but it seems preferable (please see clauses 24 for instance) to retain it. The definition has now been inserted in the draft

NOTE—Contn. sheet.

BPG—55,000—27-4-09

G. R. S. 12]
General and Revenue Secretariat.

File No. 15 of 1909-10

Serial No.

2. The word "clear" has been inserted as recommended.

3) This was an oversight and has been Corrected

4) It is not clear how the amendment Suggested by the learned Chief Judge makes any difference. If directed this will be adopted in preference to the wording in the draft

5) To meet this objection the following words have been added to the Sentence: " Or if for Such area there is no Village Court through the Court of the Munsiff within whose jurisdiction the witness resides

6) The draft is all right (The mistake was in the copy Sent to the C. J.)

7) The words have not been added as recommended.

8) These Errors have been rectified The only question is whether clause 22 may be amended as Suggested by the C. J.

2) In the Copy Sent to the C. J. there was a Slight mistake in the numbering of the clauses. Hence his remarks from para 3 downwards Should be taken to refer to the clauses noted in the margin of the note in pencil.

SH

26/5/10. SH

15. Yes - with as much retained.

3255

2nd C

27/5/10

SH 28/5/10.

NOTE—Contn. sheet.

BPG—55,000—27-4-09

G. R. S. 12]

General and Revenue Secretariat.

File No. 14 of 1905

Serial No. 16 (Corrected accordingly.)

Submitted to Dewan

28/5/10

6366

31-5-10

GPB—55,000—27-4-09

G.R.S. 13]

Routine Notes.

[To be used only for notes, requisitions, etc., not intended for permanent record.]

Leg File No. 26 of 09-10 re
Village Courts Regn.

The Dewan wishes to know
the reason for adding the
proviso under Sec. clause 4
re memorandum of evidence
being taken in writing.
This was not referred to the
Council Resolve of 22-12-12-
It is noted that the provision
exists in the draft of 1912
Act. See Sec
Bill 7.7.10

Dear Mr Mathan
The reason for the change
is explained in para 3
of the Statement of Objects &
Reasons. As the decisions
of Village Courts are subject
to revision by a Munsiff,
it was deemed desirable
necessary to insert the
proviso. Please see also
Rule 13 of Order 18 of the Civil
Code. (I believe - but I am
not sure). The Code
under which the Courts point also before
inserting the proviso in the Bill.

Yours sincerely
8/7/10.

N. B.—Should routine notes be written on small slips, the notes must be copied, or slips pasted on this form.

I am sorry however. I overlooked the fact that this had not been specifically referred to in the Council Resolution.

8/7/10.

GPB—345,000—19-5-08

Serial No.

1 Recirculated to Councillors. The point referred to in the routine note above is important and requires consideration. It would no doubt be an advantage to have a written memorandum of the evidence, but it will add so much to the work of the Village Courts, and impair the usefulness of the scheme. The decree can direct Section 424 provides that the decree shall contain the reasons therefor, and it may be presumed that the substance of the depositions will be given in the decree. There seems to be no reason why anything more should be considered necessary in these cases than in cases of summary trials under the Criminal Procedure Code.

13/9/10

10 There is no doubt that making of a memorandum of evidence will add to the work of the Court and make the procedure longer & more tiresome — especially if these memoranda are made as usual now in most Civil Courts in original cases

2nd C/J 1st C/J

GPB—55,000—27-4-09.

Serial No.

so as to contain a full record of the evidence given. But I think there is ground for hoping that the Village Courts will adopt a much shorter form. They are familiarised with this in Mahzars & inquest reports. I have invariably found these documents & Police A Sheets to contain very short sensible memoranda of relevant facts (to be) deposed to by each witness.

2) If we wish to have a short statement of the evidence given, we shall have to say so in Cl. 44 of the draft, as is done in S. 264 of the Code of Criminal Procedure. If this is to be done at all, I believe a memorandum made soon after hearing each witness would be more easy & more satisfactory than one made while writing the Proc. after hearing all the witnesses.

"Proc. embodying the substance of the evidence"

2) As we are beginning an experiment of some importance I think we might be somewhat

NOTE—Contn. sheet.

GPB—55,000—27-4-09

Serial No.

Cautions in the beginning. We may add forms of making memoranda of evidence, so as to guard against them becoming frolic or tiresome. I would therefore retain the provision.

14/8/10

Sd
15/9/10

1st Cr)

To take down the Whole evidence verbatim is much more easy than to make a memorandum of evidence and it is too much to expect our Patels & Shanbags to do this. The writing work should be reduced to a minimum. The Patel & Punchayatdar should hear the parties and come to a decision as they do in their daily avocations in village life. To impose the making of a memorandum or the recording of evidence would be

Serial No.

subversive of the principle underlying the formation of village Courts. No such provision exist in the Madras Act. No lawyers should be allowed to appear in these village Courts. Please see the report of the Decentralization Commission referred to in the minute Note. For these reasons I agree with the Dewan in the opinion recorded by him on 11th Sept 1910.

RRM
21/11/10
SR
21/11/10

8801
21.11.10
with one book
(Return this)
+ nine pads with them
SR
8/1/10

Dear Sir, The question was put at the last Durbar. The Ministers are debarred from the draft of the Durbar Proceedings. You keep me apprised of the draft Bill is under consideration. The Dewan then desired the Members to state whether in their opinion Evidence should be recorded in the trial of cases before the Village Courts. The Members expressed that

NOTE—Contn. sheet.

GPB—55,000—2-4-09

Serial No.

That the procedure followed in summary trials by Commissioners might be adopted. 4 —

1/6 2 The Cases of Magistrates & their Chargesheets & Inquiries & 2d Class Magistrates are cases in which the Police Inspectors or other investigating Officers & the presiding Officers who writes up & submits the Chargesheets

2 3 The provision in question is likely to prove an embarrassing obstacle to the working of the proposed Regulation that it should become a mere burden on the Statute Book — It does not exist in Madras. What is the model followed here in this instance & Does

7/6 2d Cond[itio]n

1005.

9/10/10

16. The provision is copied from the old draft where I presume it had been deliberately added. A provision like this is found in the C.P.C. with reference to Cases

NOTE—Contn. sheet.

GPB—55,000—27-4-09

Serial No.

which are not appealable &
is prescribed for enquiries
in Rev. Cases also. It may
well be doubted whether Vil-
lage Courts can be trusted to
possess more discretion than
Presidents of Small Cause Courts.
Courts ~~are~~ often detect cases
in which ~~the cases~~ cases have been
decided without evidence to
support the conclusions. It
would be impossible to detect
such errors unless there is
a memo. of the evidence heard
Under clause 71 of the
bill, Munsifs can revise
decrees if they are clearly un-
just. This gives a wide power
of interference, but I cannot
see how it can be exercised
unless the revising authority
can know the evidence on which
a decision is based.

30/ If however Govt cannot
agree to retain the provision
I have one or two alternative
Courses to suggest for Consi

NOTE—Contn. sheet.

GPB—55,000—27-4-09

Serial No.

deration. We may take powe by the Regulation either to dispense with the memorandum or to impose it on Village Courts by special order of Government. Or we may insert a provision in Cl. 44 that the substance of the evidence should be ~~so~~ fo inserted in the decree — adding after the words 'the names of the witnesses examined' the phrase 'the substance of the evidence given by each of them'. This will be similar to the provision in the ~~Code of~~ Cr. Pr. Code about judgments of Summary Cases.

14/12/10

3 Perhaps the Chief Court may be unofficially consulted —

14/12

9288
15.12.10

Note—Contn. sheet.

GPB—50,000—12-8-10

G. R. S. 12]
General and Revenue Secretariat.

25 File No. 26 of 1905

Serial No. 33

Forwarded to the Registrar of the Chief Court of Mysore for favor of the opinion of the Judges of that Court being obtained and forwarded to Govt. on this point.

By order.

S Veerayanayya
Asst Secretary to Govt.
Jud & Rev Depts

Rec'd 3-1-11

Dft 21/12
SW. 11
31 21/12

In reply to the views that the provisions of Section 46 of the Madras Act should be adhered to. An untrained Village Munsiff would not I think be able to make the memorandum referred to. In non appealable Criminal cases which are tried in a summary way (Section 263 of the Crim. Proc. Code) the Magistrate is not required, in the case of a Conviction, to give a brief statement of the reasons therefor, and the procedure prescribed for Village Munsiffs should I think be on the same lines. [In the 2nd Councillors note of 14-12-10 for 'not appealable' should be read 'appealable']. Interference in revision by Munsiffs should be the rare exception and should be discouraged rather than encouraged

5.1.11. [illegible] C.J.

NOTE—Contn. sheet.

GPB—50,000—12-8-10

G. R. S. 12]
General and Revenue Secretariat.

45 File No. 2 of 190

Serial No. 35

I agree with the opinions expressed by the Dewan, the Finance Committee & the Chief Judge.

F. Whitehead
6—1—11

36 I also agree. The "reasons for the decision" will no doubt include a short statement of as much of the evidence before the Court as leads it to such decision.

Mackenzie Lethbridge
13-1-11

No. 3186/209

37 The file is retransmitted with the opinions of the Judges recorded.

Raja Lakshmi Nath
Regr. Chief Ct.
16-1-11

38 Subh
16/1/11

16/1/11

39 Dewan through 2nd Cr

1293.

98-00

19.1.11

18/1/11

The Chief Court's opinion is in accordance with that of the majority of the Judges.

19/1/11

NOTE—Contn. sheet.

GPB—55,000—27-4-09

G. R. S. 12]
General and Revenue Secretariat.

L File No. 76 of 1909

Serial No.

[Please bring up for making the necessary change in the draft]

20/4/11 SH

42 The bill has been accordingly revised (by omitting the proviso to clause 4. and sub para (3) of para 3 of the Statement of Objects and Reasons)

43 As the placing of the bill before the Legislative Council has been approved by H.H. the D.O. to the Resy may now perhaps be issued

21/4/11 SH

See 7) Dewan

10291 CSS

24.2.11 Draft as altered & 24/2/11

approved SH

24/4/11.

(The fair copy of the DO to Resident signed by the Dewan, and numbered, is put up for issue from the Secretariat with a copy of the bill & the statement of objects & reasons)

Note—Contn. sheet.

GPB—5/(0-8)—27-4-09

2.3.11.

Serial No.

3 D.O Letter No. 1576 of the 23rd Feb 1911 from D. Ananda Rau Esqr. B.A. C.I.E. Dewan, & the Right Hon'ble Sir C. Bayly Bart. G.C.I.E., Resident in Mysore.

Forwards the Bill with a statement of objects and reasons & states that it is proposed to place it before the Legislative Council at an early date.

4. D.O. Letter No. 1770 of the 22nd March 1911 from B.B. Cracroft Esqr. I.A. Resident in Mysore & the Dewan

States that there is no primâ facie objection to the Bill being laid before the Legislative Council

Ist Read. This will be entered on the agenda for the next meeting of the Council. Perhaps the Legal Councillor will take charge of the Bill. Submitted

7KS (15) 24/4/11 46 Sub- & 2nd Councillor

SW(11) 24.3.11

1764 46. 25/3/11

48. Dewan's letter Macpherson 27/3/11

10761 27/3/11

NOTE—Contn. sheet.

GPB—55,000—27-4-09

Serial No.

49 Subd. with a draft forwarding copies of the Report of the Select Committee on the Village Courts Bill to the Judges of the chief court for opinion as personally instructed.

9 nos 14/2/12

SW(11) 50 The question is whether the Ch. 15/4/12 15/4 Ct. may be Consulted on the changes made by the S.C.

15/4/12 15/4/12

Yes

51 Please Consult.

16/4/12

52 2 Subdraft

18/4/12

5 No 9 3079 dated 20/4/12 to the Registrar, Chief Court Requests him to favour Govt with the opinion of the chief court on the report of the S.C. on the Village Courts Bill.

8 nos 20/4/12

Legis 26 of 09-10

SUBJECT NO. 34.

Establishment of the Village Munsiff's Court.

(1) Messrs. Subbarayappa and Chikguruvareddi, Bangalore taluk; N. Venkatramiah, Hole-Narsipur taluk.

(1) and (2) Messrs. Agali Venkataramiah, Sira taluk, Hutchviregowda, Gubbi taluk; and Surappa, Tumkur taluk.

Summary of discussion.—Petty disputes are of everyday occurrence in villages and, in order to settle their disputes, the villagers have to resort to distant civil courts. The villagers are put to much loss and trouble on account of this inconvenience. It was therefore proposed during the previous years that intelligent patels may be empowered to dispose of such petty disputes, or, if this was not possible, the "Village Panchayet Courts" as in force in British India may be established. As no action has yet been taken it is prayed that early orders may be passed in the matter.

(2) The Scheme of Village Munsiffs' Courts may be introduced at least in one or two places as an experimental measure.

Reply of Government.—A bill is under the consideration of the Legislative Council.

53. Subd. This may be transferred to the Legislative Section for necessary action.

K.N. (123) 3.4.12

54. Deposit of place in the [illegible]

19/4/12

Legs

Serial No.

53 A perusal of the Village Courts Bill as amended by the S. C. Suggests the following remarks:

53 (1). Under clause 13 (old clause 12) no suit "Cognisable" by a Village Munsiff shall be entertained, heard or determined by any Civil Court having the same local jurisdiction, and under the next clause every suit brought under the Regulation shall be filed before the Village Munsiff within whose local jurisdiction all the defendants reside.

Suppose in a Certain Case ordinarily Cognisable by a Village Munsiff, all the defendants do not reside within the jurisdiction of the Village Munsiff then the intention clearly is that such a suit should be filed before the Munsiff having jurisdiction. But do not the words of clause 13 refd to above exclude his jurisdiction also? The word 'Cognisable' used in that clause has been explained in clause 11 and this explanation has reference solely to the Nature and Value of the subject matter of the suit and not to the place of suing

NOTE—Contn. sheet.

GPB—50,000—12-8-10

Serial No.

the word
If is read in an Extended sense as equivalent to "triable", then cases of the kind refd to supra will be covered and the ambiguity, if there is any, will be removed.

I believe there will be the same ambiguity in 'triable'.

It is therefore a matter for consideration whether the word "triable" may not be substituted for the word "Cognizable" in Cl. 5

57 (2) The Expression "Native Articles of War" occurring in sub-clause (f) of clause 57 may be replaced by "Indian Articles of War". Vide clause Sec 60 (1) of the C.P.C.

Note:- The Native Articles of War (Act XXIX of 1861) was repealed by the Indian Articles of War (Act II of 1869) which has been replaced by the Indian Army Act (VIII of 1911). The expression "Native Articles of War" occurring in the Madras Village Courts Act 1888 Sec: 5 2(b) is probably a mistake.

58 (3) In clause 57, the Expression "Myone Military Forces" occurs in three places but only in one of them we have added the Explanatory Phrase as defined in the Code of Civil Procedure 1908. We may delete the latter and add an Explanation at the End of the clause that the Expression "Myone Military Forces" in this section shall have the meaning given to it in the C.P.C. 1908.

What is the corresponding Cl. in C.P.C.?

Yes

59 (4) The Expression "Deputy Commr" occurs in several places in the Bill. E.g. Cl.

Serial No.

74. In Some places the Expression "Deputy Commr of the St" is used - in these (Cl. 74) only Deputy Commr is used.

Perhaps we may add an Explanation in the interpretation Clause that the Expression "Deputy Commr" shall mean the D.C. of the St in which the Village Court is situate. [Cf. Interpretation of Expressions of Jurisdiction]

I agree

"Deputy Commr"

The definition given in the General Clauses Regn does not seem to be sufficient for our present purposes.

60 Subdt St C/F for comments

17/4/12

308 61 I believe the opinion of the Ch Ct has been called for.

Cr. P.C. 1911
Wills Act I of 1889.

If so, wait.

9/4/12

62 Please submit this after the opinion of the Ch. Ct is received

5/4/12

NOTE—Contn. sheet.

GPB—50,000—12-8-10

G. R. S. 12]

37

General and Revenue Secretariat.

Regis File No. 26 of 1909-10

Serial No.	
6	No 4477/340 dated 21st June 1912 from the Registrar Chief Court of Lucknow suggests certain amendments in the Village Courts Bill as amended by the Select Committee.
63	submitted: The submn Note to the 1st Councillor suggesting certain amendments to the Bill as ~~adopted~~ amended by the Select Committee and which had been ordered to be sent up after receipt of the letter from the chief court is also linked to this file
	(58) SW (11) 25/6. 22/6/12
64	[Sometimes agn. Please bring up in person. Go thro' the Bill once again with great care. I note down all the amts - including those I have noted already - on a separate paper. Early]

J. MS

21/6/12

P. T. O.

NOTE—Contn. sheet.

GPB—20,000—20-1-12

Serial No.

65 The Chief Court suggest the following two amendments in matters of detail:-

66 (1). ~~It~~ That in the new proviso to Sub-cl 3 of clause 6 the word or should be 'and'. The Ch. Ct perhaps refer to the second 'or', as evidently the reference could not be to the first

It is submitted that the proviso is all right as it stands. 'Or' when it occurs a second time is intended to make the disqualifications 'distributive and not collective' Any one of the disqualifications mentioned (including the personal interest in the suit) is enough to debar a man from sitting on the Bench. It can not be understood why 'and' is suggested. If agreed no change will be made.

'Or' & 'and' in that context practically mean the same thing & the suggestion may be accepted.

67 (2) The second suggestion of the Ch. Ct. is the substitution of the word 'Satisfied' for 'Executed' in Cl. 13. This may be accepted as the word 'Executed' may be ambiguous meaning either fulfilment or partial fulfilment

Yes

NOTE—Contn. sheet.

GPB—20,000—20-1-12

Serial No.

or no Satisfaction at all of the decree. It is perhaps the intention that all partially executed decrees shd continue to be executed in the Courts in which they were originally executed.

68 (3) The ch. cl. also suggest that the words "or affirmation" in cl. 42 may be omitted as superfluous. This may be done as under the Genal Clauses Regn "Oath" includes "affirmation"

Yes

In addition to the above the following may perhaps also be considered.

69 (4) Clauses 13 & 14. The Expression "Village Munsiff" in these clauses may be replaced by "Village Court" as it is Village Courts that are contemplated by the Legislature to take Cognisance of Suits. Please see Cl. 11. We have defined & explained what a Village Court is in Cl. 3. Such a Court may be either before a Village Munsiff or Bench

Yes

GPB—20,000—20-1-12

G. R. S. 12]

General and Revenue Secretariat.

File No. 40 of 1925

Serial No.

705. There is no provision in the Bill to compel witnesses to attend and give Evidence or to produce a document. Unless ~~such Compulsion~~ an express obligation is created Sec. 174 & 175 of the C. P. C. which provide the penalty for non attendance & non production of a document will not apply. It is therefore suggested that a new clause be inserted ~~as~~ above 44 as follows:—

"Witness is Summoned by a Village Court to attend to give Evidence or to produce a document shall, except for reasonable cause, be bound to go to attend and give Evidence and produce or cause the production of the document Summoned"

✓ What is the C.P.C. provn?

Yes.

✓ 71(6). In clause 66 "a Munsiff" may be replaced by "the Munsiff"

Yes

as it is the Munsiff having jurisdiction that is reqd to ~~Accept Evidence~~

Cf. also Clauses 72 & 74.

P. G. O.

NOTE—Contn. sheet.

GPB—20,000—20-1-12

G. R. S. 12]

General and Revenue Secretariat.

File No. 46 of 1926

Serial No.

72 Attention is kindly invited to the notes on p. 34 (2nd Seq.) and the addg. of the 1st Cr on them

73 The difficulty caused by the use of the word "Cognisable" in Clause 13 discussed in those notes may also be obviated by ~~making~~ proving the addition of a ~~sub~~ Sub-clause to clause 14 as follows:—

"Provided that

This is quite unnecessary. The suits which can be tried in any village Ct under the draft regulations only will be taken out of the ~~Co~~ ordinary Civil Cts Regn: and all other suits remain Cognizable by such Cts accg to Civil Cts Regn

When ~~at the time of the~~ Commencement of the Suit ~~any~~ owing to some only of the defendants residing or carrying on business or personally working for gain within the local limits of the jurisdiction of a Village Court, a Suit Cognisable by such Court cannot be tried there, such Suit may be instituted in the Court of the Munsiff having jurisdiction."

74 (7) The Expression "Native Articles of Use" occurring in Sub-clause (f) of Cl 51 [please see p. 35 of these notes] may be replaced by

NOTE.—Contn. sheet.

GPB—20,000—20-1-12

G. R. S. 12]

General and Revenue Secretariat.

445 File No. 26 of 1912

Serial No.

all right

"the Indian Army Act-1911" which repeals the Native Articles of war. (and the word "apply" changes into "applies").

In the new C.P.C. we replaced the Persian Native Articles of war' used in the old Code by "Indian Articles of war" But the Indian Army Act of 1911 has since repealed the whole of the "Indian Articles of war" and so the reference in the Bill should be to the Indian Army Act—

[The other Amendments suggested at pp 35 to 36 have been applied by the Councillor]

76 a typed copy of all the amendments in the order of sections to which they refer is attached for facility for reference—

142

5/7/12

5/7/12

NOTE—Contn. sheet.

GPB—20,000—20-1-12

G. R. S. 12]

General and Revenue Secretariat.

445 File No. 26 of 1912

Serial No.

76 Please see marginal ~~article~~ notes & discuss personally on other matters.

14/7/12

77 Further notes added marginally.

Submit to Dewan

19/7/12

78 Subd to Dewan.

Sd. Appd. the above amendments as applied to the Civil Code will be moved at the next meeting of the Council

19/7/12

2365/19.7.12

79 Dewan Please insert in a spare printed copy, & circulate to Members for his opinion after 14 days

NOTE--Contn. sheet.

GPB—20,000—20-1-12

G. R. S. 12]

General and Revenue Secretariat.

Legis File No. 26 of 1909-10

Serial No.

Early

16/9/12

30 Submitted with all the amendments proposed noted in a printed spare copy of the Bill as amended by the select committee. The file has to be sent circulated to the 2nd Cr as ordered by the Dewan

3389 of 11

(sd) 18/9/12

81

20/9/12

Received back from the 2nd committee on 2/10/12

2nd Cr

82 Before the file was seen by the Second Councillor Mr Nanasinga Rao member Legislative Council gave notice of his intention to move several amendments to the Bill. They will be noted on below in the order

NOTE--Contn. sheet.

GPB—20,000—20-1-12

G. R. S. 12]

General and Revenue Secretariat.

Legis File No. 26 of 1909-10

Serial No.

in which they occur:—

83

(1) Clause 13 Mr N. proposes that this clause should be omitted The clause refers to the exclusive jurisdiction of Village Courts. The Govt deliberately departed from the policy of the Madras Govt and provided that if the Bill is to have a fair chance the public must be compelled to resort to it This is what the Travancore Govt also — on the advice of a Special Committee have done in a bill now pending before the Legislative Council of that State. Our Chief Court have approved of the provision in the Bill and there seem to be no good grounds for modifying it as suggested by Mr Venkatasubba Rao

Sec: 11 of the Village Panchayet Courts Bill, (Page [illegible])

84

2 Clause 6 para (5). Mr N. proposes that the words "If there be no such majority the opinion of the

NOTE—Contn. sheet.

GPB—20,000—20-1-12

[G. R. S. 12]

General and Revenue Secretariat. Legis File No. 29 of 1909-10

Serial No.

of the Village Munsiff shall prevail"
Mr Narasinga Rau is evidently
thinking of a case where all the
three members of a Bench may
severally propose a different decision
But this is not a likely or even
possible event. However much they
may differ in their reasons they is
bound to be unanimity at least
between two of the members in regard
to the relief suggested. E.g. one
member may be for dismissing a
suit, another for decreeing it in
full and the third for decreeing it
only partially. Then the decision
of the Court will be a partial
decree as to that extent two of
the members agree.

It may be added
that a provision like the one
suggested by Mr N. Rau does not
exist even in the Chief Court
Regulation where also the decision
of a full Bench is decided by the
majority. Nor is it to be found in
the Punjab Act (recently passed
in 1912) or in the Travancore Bill

Flag B (vide Sec: 12)
Flag A (Sec: 5(3))

NOTE—Contn. sheet.

GPB—65,000—17-5-12.

G. R. S. 12]

General and Revenue Secretariat.

Legis File No. 26 of 1919-10

Serial No.

This Amendment may not therefore be adopted.

(3) Clause 20. Mr N. Rau proposes that the words "for just and sufficient Cause" be omitted. Withdrawn
The Clause refers to the ~~transfer~~ of Suits by a (District) Munsiff from a Village Court to his own ~~Court or~~ Court or to the transfer from one Village Court to another

It is not clear why Mr N. Rau proposes the omission of the above words. No Judge should transfer a case from one Court to another except for "just and sufficient Cause" and it is perhaps just as well that this should be made clear in the Bill to prevent possible vagaries. Transfer of Suits means Expense to parties and it ought to be one of the objects of the Village Court Bill is to save avoidable Expenditure to the parties. The Amendment may perhaps be opposed

NOTE—Contn. sheet.

GPB—65,000—17-6-12.

G. R. S. 12]

General and Revenue Secretariat.

Legs File No. 26 of 1909-10

Serial No. 86

4. Clause 26. This refers to the mode of Service of Summons on a defendant who is beyond the local jurisdiction of the Village Court. The Bill provides that in such Cases the Service shall be made ~~by~~ thro' the Munsiff but Mr. Rau proposes that as in the Case of witnesses resident beyond the jurisdiction the Summons may be sent to the Village Court having jurisdiction over the place in which the deft resides or if for such place there is no Village Court to the Patel of the village wherein the deft is living.

The point was not overlooked by the Select Committee. They deliberately retained the provisions of ~~the~~ clause 26 as it is they are. As they thought that defts Shd be served thro' the Munsiff, though the procedure may be different in the Case of witnesses. It is of great importance that the defendant in the suit should

NOTE—Contn. sheet.

GPB—65,000—17-6-12.

G. R. S. 12]

General and Revenue Secretariat. Legis File No. 26 of 1909-10

Serial No.

Supra

be served properly. The Suggestion may therefore be negatived.

87

(5) Clause 30. This clause provides that where a plaintiff does not appear at the hearing of the suit but the defendant appears and admits the claim wholly or in part the Court shall pass judgment in accordance with the admission, provided that where only a part is admitted the hearing may be adjourned to a further day.

Mr Narasinga Rau seems to be of opinion that the discretion given in the proviso should be taken away and that where part of the claim is admitted a decree should be passed to that extent the suit being dismissed as regards the remainder of the claim.

Mr Narasinga Rau's Suggestion is in conformity with the provisions

NOTE—Contn. sheet.

GPB—65,000—17-6-12.

G. R. S. 12]

General and Revenue Secretariat. | Legis File No. 26 of 1910

Serial No.

of the Civil Procedure Code (Order 9 rule 8) and it is not known why a different provision was made in the Madras Act on which our Bill is based. It is a question for Consideration whether Mr Wanasinha Rau's amendment should not be accepted. [There is of course no harm in leaving the provision as it is].

67. Clause 31. Mr Wanasinga Rau proposes that this clause may be recast so as to make it clear that when a suit has been dismissed under Sec 30 the plff shall be precluded from bringing a fresh suit.

As the Section now stands this is not quite clear though the same Courts Conclusion may legitimately be drawn by implication. [Please Compare the first two lines in respect of orders under Clauses 10 & 31.]

NOTE—Contn. sheet.

G. R. S. 12]

General and Revenue Secretariat. Legis File No. 26 of 1911-10

Serial No.

of Sec 29].

In the Civil Procedure Code it is made quite clear (order 9 rule 9) that in such Cases no Second Suit Shall be brought and I believe the Same is intended in the Bill also. Mr N. Rau's amendment which is based on the language employed in the C.P.C. may perhaps be adopted with a few verbal changes as indicated

89

8. Clause 33. Mr N. Rau proposes that the words "dismissal or" be inserted between "no" & "decree". This is evidently intended as a verbal amendment only but there seems to be no necessity for the change as a "decree" includes a "dismissal" — the decision may be in favour of the plaintiff or the defendant — in either case it is a "decree". The amendment may be negatived. [The language of

? May be Considered

Considered

decision

33

NOTE—Contn. sheet.

GPB—65,000—17-6-12.

G. R. S. 12]

General and Revenue Secretariat. | Legs File No. 26 of 1909-10

Serial No.

is the same as that of the Corresponding section in the Madras Act]

*Flag C sec: 34

90
9. Clause 36 This clause refers to the disposal of suits on the oaths of parties. Mr N. Rau proposes that the oath should be "in any form common amongst persons of the race or persuasion to which ~~each of~~ such person belongs and not repugnant to justice or decency and not purporting to affect any third person."

The above qualification is evidently taken from Sec 8 of the Indian Oaths Act but its reproduction in Clause 36 of the Bill does not seem to be necessary. That Act is in force in Mysore and there is nothing in the present Bill to make it not applicable so that the provisions of Sec's 8 & 9 of that

*Flag D.

NOTE—Contn. sheet.

GPB—65,000—17-8-12.

G. R. S. 12]

General and Revenue Secretariat. | Legis File No. 26 of 1909-10

Serial No.

Act will govern any oath offered to be taken by a ~~suit~~ party to a suit under Sec 36 of the Bill. There seems to be no necessity for repealing it. In any case there does not seem to be much to be gained in making the provisions of cl. 36 correspond too mystical to be comprehended by the class of persons from whom our Village Munsiffs are to be drawn.

Dept
to

may perhaps be negatived

91

to. Clauses 40 & 41. Mr Varadaraja Rau proposes that a clause may be inserted making it obligatory on the witnesses summoned to attend the Village Court. This amendment has already been proposed in the office note and approved by the Councillor — Please See p. 40 of the notes If our amendment is carried

NOTE—Contn. sheet.

GPB—65,000—17-8-12.

G. R. S. 12]

General and Revenue Secretariat. | Legis File No. 26 of 1909-10

Serial No.

Cl. 51 will be dr.

this will have to be dropped

11.92 clause 51

W. W. Rau proposes that among Cases of Exemption from attachment in Execution of a decree of a Village Court the following should be included:—

"Any allowance declared by any law passed by the Govt of Mysore to be exempt from liability to attachment & Sale"

It is obvious that to include it again among the Exceptions to Sec 51 would be a pleonasm Even without such inclusion the allowance would be exempt under the law refd to in the clause. The Select Committee Considered the point and decided not to touch it, even tho' it is to be found in Sec 60 of the C. P. C.

93 May be relegated

12 clause 20 It is proposed

NOTE—Contn. sheet.

GPB—65,000—17-5-12.

G. R. S. 12]

General and Revenue Secretariat. | File No. 26 of 1917

Serial No.

by Mr Narasingha Rao that under this Clause there Should be a new Clause ~~Saying~~ Stating that Suits which Village Munsiffs are precluded from Entertaining may be instituted before the Munsiff having jurisdiction

This Seems to be unnecessary as the Civil Courts Regulation provides for this and the jurisdiction of these Courts is taken away only to the Extent Strictly defined in the Bill

Vide E Sec: 10

The Amendment may perhaps be negatived

Yes

94 A perusal of the Bill in this Connection disclosed a Small Clerical Error in ~~the~~ Clause 50 of the Bill as amended by the Select Committee In the Explanation ~~Clause~~ the reference to Sub clause (4) which refers to the "arms Equipment &c" of the Mysore Military Forces is inappropriate and may be omitted

Yes

NOTE—Contn. sheet.

GPB—65,000—17-6-12.

G. R. S. 12]

General and Revenue Secretariat. | File No. 26 of 191

Serial No.

This will be noted and a suitable amendment framed to be moved at the meeting.

95. Resubd to 1st C
(before circulation of file to 2nd C)

20/12/12

96. 1st C) I have added marginal notes. If any further discussion is necessary, please see to me with the file.

does not seem to be necessary now

6/12/12

5/12/12

97. Subd to 2nd C

98

6/12/12

6/12/12

6/12/12

NOTE—Contn. sheet.

GPB—65,000—17-6-12.

G. R. S. 12]

General and Revenue Secretariat.

File No. 26 of 1909-10

Serial No.

Sec. 362 19.12.12

99. Subd to Dewan

19/12/12

100. I agree that the jurisdiction of the village courts should be exclusive and not concurrent. The Hon'ble Councillors suggestions may be adopted generally.

The present 2nd Councillor may also be consulted.

13.2.13

2nd Councillor) 101 Dewan 14/2.

14/2/13

102 I have carefully gone through this file & have tried to appreciate & appraise the draft Bills & have made discussed & persons concerned to do so

5/3/13

5/3 7/3

103 Bring up 8/3/13

7/3

NOTE--Contn. sheet.

J.3389-11-12.

G. R. S. 12]

General and Revenue Secretariat. | Legis File No. 26 of 1909-10

Serial No.

104 Submitted

The Bill, the report of the select committee and the several amendments proposed were also considered (by the Legis. Cl at the meeting of 4/4/13) and the Bill with certain amendments as shown in the copy put up were adopted. The sanction of the Government of India has to be obtained for this being passed into law. As the Bill has undergone many changes may 50 copies of the Bill as now adopted by the Legis. Cl be got printed and such printed copy sent to the Residency If ordered the Supdt. Govt. Press will be asked to print the copies required A draft to the Residency to ~~inform~~ ~~before the~~ for obtaining the sanction of the Govt. of India is also put up

105 Yes may be done. Yes. Please write to Supdt. Govt. Press 28/4

Supdt. Govt. Press

(58) SN 28/4/13 28/4/13

NOTE--Contn. sheet.

L.C 3389 of 11-12

57

G. R. S. 12]

General and Revenue Secretariat.

Legis File No. 26 of 1912-13

Serial No.	
	108 Submitted with a draft to the Supdt. Govt Press as ordered (58) SN 29/4/13
	107 Issue SPL 30/4
7	No 3311 dated 1/5/13 to the Supdt. Govt Press Requests him to print and supply 50 copies of the Village Courts Bill as adopted by the Legis. council on 4/4/13
	108 Submitted Printed copies of the Bill as finally adopted by the Legislative council have been received. The copies have to be sent with a covering letter to the Residency for obtaining the sanction of the Govt of India for the Bill being passed into law A draft to the Residency is put up (58) SN 30/5/13 31/5/13
	109 The draft may be approved Dr Secy SPL 31/5 Draft Secy 31/5
	110 1st Council

NOTE.—Contn. sheet.

GPB—20,000—20-1-12

~~L. 3284 of 1912~~

283

G. R. S. 12]

General and Revenue Secretariat.

Legis File No. 26 ~~of~~ of 1909-10.

Serial No.	
	111 Draft appd by 1. Sl-Councillor 7.6.13. MSS W 7/6 Secy 9/6 112. Issue Sd 9/6
8	No Pol 1040 of 13/6/13 to F.A. Resident Forwards 2 copies of the Bill as adopted by the Legis. council for obtaining the sanction of the Govt. of India for its being passed into law.
9	No 1321 dated 23/7/13 From the F.A. Resident- Conveys the sanction of the Govt of India on the usual understanding that the G.G. in council retains over the Bill the powers vested him by virtue of Art. 19 of the Instrument of Transfer. 113 Submitted. The Bill will be marked for the next meeting of the Legis. council. (sd) SN 25/7/13 24/7/13 114 Yes Sd 25/7 Yes Draft

NOTE--Contn. sheet.

GPB—20,000—20-1-12

G. R. S. 12]

General and Revenue Secretariat.

Legis File No. 26 of 1909-10

Serial No.

Submitted

The Bill was ~~placed before the~~ taken up and passed by the with slight modifications in sec: 1 by the Legislative council at their meeting held on the 18th September 1913.

Flag W

A copy of the Bill as finally passed is herewith put up for ~~Assent~~ signature of the Dewan after obtaining His Highness' sanction thereto. The Bill has to come into force from 1/1/1914.

(48)
25/9/13

Dy Secy)

SOR
25/9
Dewan's Office
26/9/13

1st Translator)
Dewan

Draft Submission Note is put up. Dewan 26/9

27/9/13

Dewan 26/9

5685
4-10-13

Dewan) A draft Submission Note is put up. Dewan's Office 2/10

NOTE--Contn. sheet.

GPB—20,000—20-1-12

Submitted to His Highness.

Paper under disposal

The Mysore Village Courts Bill has been approved by the Government of India, and finally passed by the Legislative Council, at the meeting held on the 15th September 1913.

W

2. I now solicit the sanction of His Highness for its promulgation into law.

M. Visvesvaraya

8th Oct. 1913.

8/

Record of Cases submitted for the Orders of His Highness the Maharaja

Subject.

Promulgation of the Mysore Village Courts Bill into Law.

pp. 317

Order.

Sanctioned
~~KRW~~
11/10/13

Secretary
12.10.13
B III
13/6
Draft order at once
So appear in this weeks Gazette
SDR 14/10

G. R. S. 12]

283

General and Revenue Secretariat. | Legis File No. 26 of 1909

Serial No.	
	Sealed with a draft order AS 54 15/11/13
	Issue. Let me see proof SDL 18/11
10.	To the Compiler, Nilgiri Gazette, & No. 1235 of 21-10-13. Orders the publication of the Village Courts Regn as Regn VII of 1913 The Asst Secy directed that the proofs may be compared in the Branch which was done:- Spare copies of the Regn have been received, as also of the Excise Amendment Regn & Muzaraí Regulation. 10 copies of each have to be sent to the Residency. A draft is put up for approval AS 54 17/11/13 (48) 14/11/13
	Issue SDL 14/11
12	376 dated 18/11/13 To the F. A. Resident Forwards 11 Copies of each of Regns VI of 1913, VII of 1913 and VIII of 1913

A/29/11

NOTE—Contn. sheet.

GPE—65,000—17-C-12.

Revising Section
Please prepare two copies of the draft Bill referred to in the subject below.

G.R.S. 26]

Legi File No. 26
Serial No. 209/1

Diary No. of letter replied to _____

22/4/60

No. J 3460 (Secy)

General and Revenue Secretariat
( )
, *the* 190

To
The Registrar Chief Court
Bangalore

Date of issue 13.5.60

Signed by Mr S. Shivyannaiya

Sir

I am directed to forward herewith a copy of a Bill for the establishment of Village Courts in Mysore and to request you to be so good as to obtain forward the opinion of the Chief Judge on the Bill and to forward the same to Government.

I have &c.

for Secretary to Govt

With the Statement of Objects & Reasons

over.

SUBJECT.

Now 9/5

No. 1735/282

Chief Court of Mysore,

Bangalore, dated 18th May 1915

From

V.A. Rajaratna Mudaliar, Esq.,

Registrar, Chief Court of Mysore.

To

C.S. Balasundaram Iyer, Esq.,

Offg. Secretary to Government,

General & Revenue Departments.

Sir,

With reference to your letter No.J.3460/Leg.26-09-1 dated the 13th instant forwarding for opinion copy of a Bill f the establishment of Village Courts in Mysore, I am directed t enclose herein copy of the Chief Judge's Note.

I have the honor to be,

Sir,

Your most obedient servant,

Registrar.

Sw. & 473/282

The Chief Judge's Note.

I have examined the Bill for the Establishment of Village Courts in Mysore. The very few remarks which I have to make are appended :-

1. I do not understand why the definition of Village Munsiff has been omitted from the Bill.

2. In clause 6 subclause (3) I would use the expression 'two clear days'(as in the Madras Act) or 'three' might be substituted for 'two'.

3. In clausey 18 (two places) for 'a Munsiff' read 'the Munsiff'.

22 4. Clause 21 might run thus : 'No advocate or pleader shall be ~~admitted~~ permitted to appear on behalf of any party to a suit before a Village Court but any party to any such suit may appoint by vakalatnama any relative, servant, friend or dependant to appear and plead for him. It shall, however, etc. etc.

38 5. Clause 37. It is not easy to see how this will work in practice. A witness may reside within 5 miles beyond the Court's jurisdiction, but it does not follow that he is residing within the jurisdiction of any Village Munsiff.

49 6. In clause 48 for '65' read '64'.

65 19 7. Clause 64. If it is deemed necessary to insert the words 'for good and sufficient cause' in clause 18, should not these words also find a place in this clause ?

72 8. In the first line of clause 70 for 'a Munsiff' read 'the Munsiff'.

17th May 1910.

sd. S. Ismay
Chief Judge.

' C o p y '.

Registrar.

Draft D.O. No. 1976

Legis 26 of 09
Serial 3

Bangalore
27 Febl.

To

Hon'ble the British
The ~~First Assistant~~ Resident in

Mysore.

My dear sir,

I forward herewith a Bill to provide for the establishment of Village Courts in the State together with a statement of objects and reasons therefor. The desirability of the establishment of such Courts has been brought to the notice of the Durbar ~~this Government~~ by members of the Representative Assembly on several occasions ~~from time to time~~ and the Durbar ~~Government~~ consider that time has arrived for taking action in the matter. 2. The Bill is of an enabling character and is framed on the lines of the Madras Village Courts Act I of 1889. It is the intention of the Durbar to establish such Courts in the first instance in a few selected villages and to extend the provisions to other areas as experience justifies

justifes such extension. Para 3 of the statement of objects and reasons explains how the Draft Bill differs from the Madras Act in some important particulars.

3. ~~I am to state that if the Hon'ble the Resident sees no objection,~~ date ~~that~~ It is proposed to place ~~the~~ the Bill ~~will be placed~~ before the Legislative Council at ~~its next meeting~~ an Early date.

Yours ~~faithfully~~ sincerely

~~Sd~~

~~for Secretary to the Government~~

The Hon'ble ~~Mr~~ S. M. Fraser ~~C.I.E.~~ Col. Hugh Daly C.S.I., C.I.E

M.N.

Copy as sent to the Residency

A bill for the establishment of Village Courts in Mysore.

-------000000-----

Preamble. Whereas it is expedient to provide for the establishment of Village Courts in Mysore; His Highness the Maharaja is pleased to enact as follows:-

Chapter.I.

Preliminary.

Title, commencement & Local extent.

I. (1) This Regulation may be called " The Mysore Village Courts Regulation, 19 ".

(2) It shall come into force on the first day of ~~19~~

(3) It shall extend to such village or villages in Mysore as may from time to time be notified by Government in the Official Gazette.

Interpretation clause.

2. In this Regulation, unless there ~~be~~ is something repugnant in the subject or context, --

" Village" means a local area recognised by Government from time to time

"Village Munsiff" means the Judge of the Court of a Village Munsiff established under this Regulation

time as a village for purposes of collecting the land revenue and includes any area for which a Village Court may be established under this Regulation.

"Village Court". " Village Court " shall include a Bench constituted under Section 6.

" District Judge" and " Munsiff". " District Judge" or " Munsiff" means the District Judge or Munsiff within the local limits of whose jurisdiction the Village Cpurt is situate.

Chapter.II

Establishment and Constitution of Village Courts.

Establishment of Village Courts. 3. The Government may, from time to time, by notification published in the Official Gazette, ---

(1) establish a village Cpurt for any village or specified area;

(2) group two or more villages and establish a Village Court for them ;

(3) constitute divisions in any village and establish a separate village Court for each of such divisions.

A Village Court established under this Regulation shall be held before a Village Munsiff appointed, or a Bench of more than one judge constituted as hereinafter provided.

Appointment of Village Munsiffs.

4. Village Munsiffs shall be appointed by the Deputy Commissioner of the District subject to subh rules as the Government may from time to time prescribe; provided that no person not residing within the Village shall be eligible for that Office.

Suspension or removal of Village Munsiff.

5. The Deputy Commissioner of the District may suspend or remove a Village Munsiff for incapacity, neglect of duty, misconduct or other just and sufficient cause, and shall do so, on a requisition made by the District Judge for like cause appearing in the judicial proceedings of a Village Munsiff.

Appeals from the above orders to whom lie.

From every order suspending or removing a Village Munsiff, an appeal

may be preferred within three months to the Revenue Commissioner, if the order was passed by the Deputy Commissioner without orders from the District Judge, or to the Chief Court, if passed upon such orders. The decision of the Revenue Commissioner or the Chief Court, as the case may be, on all such appeals shall be final.

Provisions concerning Benches.

6. (1) For every village in respect of which a Village Court is constituted, and subject to any rules which the Government may make on this behalf, the Deputy Commissioner shall prepare and maintain a list of persons residing in the Village and qualified to sit as members of a Bench for the trial of suits brought under ~~the~~ this Regulation. Such list shall also be hung up in the court house of the Village Munsiff.

List of persons qualified to serve as members of a Bench.

Either party to a suit may claim a trial by Bench.

(2) In any suit which may be instituted before a Village Court

~~Court~~ under this Regulation, the plaintiff in his plaint or the defendant in his answer may claim that the suit shall, instead of being tried by the Village Munsiff, be tried by a Bench of three judges and nominate as a member of such Bench any person named in the list mentioned in clause (1); provided that such person is not his servant, defendant, relative or tenant, or personally interested in the result of the suit.

Nomination of Members of Bench.

(3) When the plaintiff has nominated such a person in his plaint, the defendant shall, by the summons, be requested to nominate one also. When the defendant has demanded a Bench and nominated such a person, the plaintiff shall be required to nominate one also. When any person nominated to --- serve on a Bench declines or is unable to act, the party who nominated him shall be required to make a fresh nomination.

If a requisition under this clause has not been complied with within two clear days after it is made, the Village Munsiff shall himself

himself select from the list a person to serve on the Bench on behalf of the party so making default.

Members of Bench to be summoned by Village Munsiff.

(4) The Village Munsiff shall summon the two persons nominated or selected as aforesaid to sit together with himself for the trial of the suit.

P r o c e d u r e.

(5) The Village Munsiff shall be the President of such Bench and shall regulate the procedure and issue all summonses, notices and the like in his own name, but the decree shall run in the name of all the three members of the Bench. If the members of the Bench cannot agree, the opinion of the majority shall prevail.

Liability to serve on Bench.

(6) No person summoned under this section to serve on a Bench shall be bound to sit for more than three days in a month; provided that every such person shall be bound to attend the trial of any case which has been commenced before him until its completion.

Penalty for refusing or omitting to serve.

(7) Whoever, being duly summoned under

under this section to serve on a Bench, declines or omits to do so, without reasonable excuse, shall, on conviction before a Magistrate, be liable to a fine not exceeding -- Rs.20/-.

Register of suits filed and record of Proceedings held before Village Courts.

7. The Village Munsiff shall keep a register of suits filed in the Village Court and shall write the proceedings of the Court, and may, if necessary, employ any person in the village to assist him in keeping the register and in writing the proceedings.

Service of summonses &c.

8. It shall be the duty of the village servant usually employed in carrying messages to serve all summonses, notices, and orders issued under this Regulation, and to act under the orders of the Village Munsiff in -- seizing, delivering and selling moveable properties attached under this Regulation.

Power of Deputy Commissioner to appoint persons to perform duties mentioned in Sections 7 and 8.

9. The Deputy Commissioner of the District may, with the previous sanction of Government, appoint any other person to perform the duties prescribed by Sections 7 and 8 respectively.

Chapter III.

Chapter III.

Jurisdiction, Res Judicata and Limitation.

Cognizance of ~~Suits~~ suits by Village Courts.

10. The following are the suits which shall be cognizable by Village Courts, namely,-

Claims based on contract for money due, or claims for personal property, or for the -- value of such property, when the debt or demand does not exceed ~~one~~ in amount or value the sum of Rupees twenty, whether ~~as~~ on balance of account or otherwise.

Proviso.

Provided that no action shall be brought in any such Court-

(1) on a balance of partnership account unless the balance shall have been struck by the parties or their agents;

(2) for a share or part of a share under an Intestacy, or for a legacy, or part of a legacy under a will;

(3) for rent for land unless such rent is due upon a written contract signed by the - defendant;

(4) by or against Government or public officers in their official capacity;

(5) by and against minors or persons of unsound mind.

11. (a) With the written consent of both parties executed before the court, a village court may hear and determine suits of the nature described in section 10, the amount or value of which ~~@@@~~ shall not exceed Rupees 200/-.

Jurisdiction with consent.

Exclusive Jurisdiction in Village Courts in Cases cognizable by such Courts.

(2) No suit cognizable by the village Munsiff under this Regulation shall be entertained, heard or determined in any other court having jurisdiction within the local limits of the jurisdiction of such village Munsiff's Court.

Proviso

Provided that all such cases pending in any court at the time this Regulation comes into force shall be heard and determined by such court and decrees passed in suits, which shall not have been executed prior to such time, shall be executed by such courts.

Court in which suits to be instituted.

13. Subject to the provisions contained in section ~~12~~ 14, every suit brought under this Regulation shall be instituted in the court of the village Munsiff within the local limits of whose jurisdiction all the defendants at the time of the commencement of the suit reside or carry on business or personally work for gain.

If defts live in different V. Munsiffs jurisdictions, in which village etc can have jurisdiction? Is this what is intended?

Suit in which the court is personally interested.

14. No village Munsiff shall try any suit to which he is a party, or in which he is personally interested, or shall adjudicate upon any proceeding connected with or arising out of such suit. Every such suit or proceeding may be instituted in the court of the Munsiff of any village immediately adjoining.

Subq
Yes - I believe so. Otherwise Complicated q as to jurisdiction will have to be decided by these Courts - ~~that is the~~ ~~that~~ ~~Sub-Judge~~ ~~Sub-Magistrate~~
SH
19/4/10

Res Judicata.

15 ~~14~~. No village court shall try any suit brought on a cause of action which has been heard and determined by a court of competent jurisdiction, in a former suit, between the same parties, or those under whom they claim.

Suit to include whole claim.

16 ~~15~~. Every suit instituted in a village court shall include the whole of

of the claim which the plaintiff is entitled to make in respect of the cause of action but he may relinquish any portion of his claim in order to bring the suit within the jurisdiction of such court.

Relinquishment of part of claim.

If a plaintiff ~~omitted~~ omits to sue in respect of, or intentionally relinquishes, any portion of his claim, he shall be precluded from bringing a fresh suit for, or in respect of, the portion so omitted or relinquished.

Incidental determination of matters not cognisable by village courts.

17/~~16.~~ If in the decision of a suit cognisable by a village court under sections 10 and ~~12~~ 13 it becomes necessary to decide incidentally any matter in dispute between the parties to the suit concerning title to immovable property, or the legal character of either of them, or of those under whom they claim, or the existence of any contract or obligation, which, if it had been the immediate subject matter of the suit, would not be cognisable ~~by them~~ under this regulation by a village court, it shall be competent to the village court to decide

to decide such question of title, legal character, ~~character~~ contract or obligation as far as may be necessary for the determination of such suit, but such decision shall not be evidence of such title, legal character, contract or obligation in any other action, though between the same parties, or their representatives.

Limitation.

18 ~~17~~. The provisions of the Mysore Limitation Regulation, shall apply to suits and applications under this Regulation.

Proviso.

Provided that no suit or application - shall be entertained by a Village Court after the expiration of three years from the time when the right to sue or make the application first accrued.

Transfer of suits.

19 ~~18~~. ~~A~~ The Munsiff may, on the application of any of the parties, withdraw "for just and sufficient cause", any suit from a Village Court and try the suit himself, as if it had been instituted in his Court, or transfer it for trial to any other village court within the local limits of his jurisdiction.

Provided that any party applying to -- have a suit withdrawn from a village court

and [illegible]

and tried by the Munsiff shall, before any such order of transfer is made, pay the amount of the fees payable under the Mysore Court Fees Regulation, 1900, in respect thereof.

Chapter IV.

Of the Institution and Frame of suits, Recognized Agents, the issue and service of Summons on parties, Adjournments and consequences of Non-appearance.

Suit to be commenced by plaint.

20 19. Every suit under this Regulation shall be instituted by presenting a plaint to the Village Munsiff together with as many copies as thereof as there are defendants. One copy shall be delivered or affixed as hereinafter provided together with the copy of the summons.

Particulars to be contained in plaint.

21 20. The plaint shall be written in Kannada and signed by the Plaintiff, or, in his absence by an agent duly authorised by him, and it shall contain the following particulars:-

(a) the name, description and residence of the plaintiff and defendant:

(b)

(b) A concise statement of the cause of action and when it arose:

(c) The relief prayed for and the total amount or value of the claim.

Appearance in person or by Agent.

These words are necessary.

22 ~~21.~~ No advocate or pleader ~~of any court~~ as such shall be permitted to appear ~~or plead~~ on behalf of any party to ~~any case~~ a suit before a village court, but ~~it shall be competent to~~ any party to ~~any~~ such suit may appoint by Vakalatnama any relative, servant, friend or dependant to appear ~~or plead~~ for him and ~~conjointly with or in lieu~~ of ~~such party~~ himself. It shall however be competent to the village munsiff whenever he thinks it necessary for the ends of justice, to order the personal attendance of any of the parties to the suit; and if the party so ordered does not attend in person, he shall be subject to the same consequences as if he did not ~~appear~~ appear either in person or by an agent.

Registry of Plaint and Issue of Summons

23 ~~22.~~ When the plaint has been duly -- presented the Village Munsiff shall --

shall cause ~~the same~~ to be registered and shall, by a summons ~~by~~ in writing, require the defendant to appear and answer the claim on a specified day. The summons shall be accompanied by a copy of the plaint and shall require the defendant to bring his witnesses, if any, on the date fixed for hearing, the plaintiff being likewise directed to appear on that date with his witnesses. The summons shall be served on the defendant personally and a copy thereof delivered to him ~~by the village servant usually employed in carrying messages, or by any other person appointed by the Deputy Commissioner under section 9.~~

Mode of service when Defendant evades serice.

24 ~~23.~~ If the Village Munsiff is satisfied that the defendant is evading service of the summons, the Village Munsiff may order that it be served upon , and a copy thereof delivered to, an adult male member of the family of the defendant residing with him , or that a copy thereof be affixed upon some conspicuous

part of the house in which he generally resides and another copy to the Court-house of the Village Munsiff.

Mode of service when defendant is beyond local jurisdiction of Court.

25 ~~24.~~ Whenever it may be ~~[illegible]~~ necessary to serve the summons upon a defendant beyond the local jurisdiction of the Village Court, it shall be forwarded to the Munsiff, who shall cause it to be served as if it had been a summons issued by himself, and shall then return it to the Village Court, together with a report of such service. Such report shall be prima facie evidence of the facts stated therein.

~~[illegible]~~

Procedure if defendant does not appear.

26 ~~25.~~ If a defendant does not appear in person or by agent on the day fixed, and it ~~be~~ is proved that the summons was duly served, the Village Court may proceed ex parte.

If it is not proved that the summons was duly served, the Village Munsiff shall isuue a fresh summons.

Every

Every defendant may claim 2 clear days' notice of suit, and if the summons was not served in sufficient time to enable him to answer on the day fixed, the hearing shall be adjourned to a future day, of which due notice shall be given to defendant.

Process to be served at expense of party issuing.

27 ~~26~~. Every summons served under this Regulation otherwise than by the village servant shall be served at the expense of the party on whose behalf it is ~~serve~~ issued, and the amount of fee leviable for such service shall be fixed by Government from time to time and shall be levied by the Village Munsiff in such manner and ~~&&&&&~~ subject to such rules as may be prescribed in that behalf by the Government.

Procedure where plaintiff does not appear and defendant does not admit claim or where summons is not served through plaintiff's default.

28 ~~27~~. If on the day fixed for the defendant to appear——

(1) neither party appears, or

(2) the plaintiff does not appear and the defendant appears and does not admit the claim, or

(3) the summons has not been

served

served owing to the plaintiff's default and the defendant does not appear,

the suit shall be dismissed unless the Village Court, for good and sufficient cause, otherwise directs.

Procedure where plaintiff does not appear and defendant admits claim.

29 ~~28~~. If the plaintiff does not appear but the defendant appears and admits the claim wholly or in part, the Village Court shall pass judgment against defendant in accordance with such admission, provided that, when only a part of the claim is admitted, the Court may adjourn the hearing to a future day.

Setting aside order under Section ~~28~~ 28 or ~~28~~ 28 on cause shown.

30 ~~29~~. Whenever a suit is dismissed under clause (1) or clause (3) of Section ~~28~~ 28, the plaintiff may bring a fresh suit, and if within 30 days from the date of an order under clause (2) of Section ~~28~~ 28 dismissing the suit or of a decree passed for only a part of the claim under section ~~29~~ 29

the plaintiff satisfies the Village Court that he was prevented by any sufficient cause from appearing, the Court shall set aside the dismissal or the decree, and shall appoint a day for proceeding with the suit.

Setting aside ex parte decree against defendant

~~30.~~ 31/ Any defendant against whom a decree has been passed ex parte may, within 30 days from the date of executing any process for its enforcement, apply to the Village Court to ~~be~~ set it aside; and if satisfied that the summons or notice was not duly served or that the defendant was prevented ~~failed~~ by any sufficient ~~course~~ cause from appearing, the Court shall set aside the decree and shall appoint a day for proceeding with the suit.

No decree to be set aside without notice to opposite party.

32 ~~31~~. No decree shall be set aside on any application under section ~~29~~ 30 or section ~~30~~ 31/ unless notice has been served on the opposite party.

CHAPTER V.

Of

Chapter V.

Of the Hearing, Withdrawal or Compromise of Suits, and of the summoning and Examination of Witnesses.

Procedure on appearance of both parties.

33~~32~~. When the defendant appears, the Court shall ascertain from him whether he admits the claim made in the plaint. If he admits the claim, or if the suit ~~be~~ is compromised, such admission or compromise shall be recorded in writing and signed by the parties, and the Court shall pass a decree in accordance therewith. If the defendant does not admit the claim, he shall be required to state his objections either orally or in writing, and the court may, if it thinks fit, adjourn the case to enable him to file a written statement.

Withdrawal of suit.

34~~33~~. If the plaintiff wishes to withdraw a suit, he shall signify the same in writing to the Court which shall strike the suit off the file and no fresh suit shall be brought on the same cause of action.

When suit may be settled by oath.

When suit may be settled by oath.

36 ~~34.~~ If either party is willing to let the - suit be settled by the oath of the other, and such other party assents and takes the oath, the Court shall give judgment according to such oath.

Set - off.

37 ~~35.~~ The defendant may set~~t~~/ off any amount legally due to him by the plaintiff, for --- which he could bring a suit in a Village -- Court. If such set off is established, the - decree shall be for any sum which finally - appears to be due to either party.

Witnesses not present to be summoned.

38 ~~36~~. When the defendant's statement has been made, the court shall proceed to examine the truth of the claim, and shall summon the witnesses~~s~~ cited by either party who are not present.

Summons to witnesses how served.

39 ~~37~~. Any witness residing within the jurisdiction of the Village Court may be summoned verbally or in writing. Any witness residing within 5 miles beyond the Court's jurisdiction may be summoned in writing, and - such summons shall be served through the -- Village Munsiff within whose jurisdiction - he resides. If any witness resides more than

or if for such area there is no village Court, through the Court of the Munsiff within whose jurisdiction the witness resides

5 miles beyond the jurisdiction, the Court may call on the parties to frame written interrogatories and shall forward such interrogatories ~~to the~~ with a letter to the village Munsiff within whose jurisdiction the witness resides and ~~the~~ party Munsiff shall forthwith summon and exami the witness upon the interrogatories, and shall return his answers to the Court in which the suit is pending.

Interrogatories.

39 ~~38~~. A summons may direct the party summoned either to appear and give evidence or to produce or cause the production of a document.

Summons to appear and give evidence or produce document.

40. ~~39~~. Women who, according to the customs and manners of the Country, ought not to be compelled to appear in public, persons exempted from personal appearance in court, and any person who, by reason of sickness or bodily infirmity, cannot attend without serious inconvenience, shall not be summoned; but when the evidence of any such person is necessary, the village court shall examine such person at his or her residence.

Exemptions of certain persons from personal appearance.

41 ~~40.~~ Witnesses shall be examined on oath or affirmation, but it shall not be necessary for a village court to take down depositions of witnesses in writing, ~~provided as the examination of each~~ witness proceeds, the Village Munsiff shall make a memorandum of the substance of what each witness deposes, and such memorandum shall be written and signed by the Village Munsiff and the other members of the Village Court, if any, shall also affix their signature thereto.

Examination of witnesses.

~~41.~~ 42 If it appears likely that the parties will settle the matter amicably, or for any other sufficient cause, the village court may adjourn the hearing to a day to be fixed in the presence of the parties, or in cases in which the defendent does not appear, in the presence of the plaintiff. If, on such day, the parties or any of them fail to appear, the village court may proceed to dispose of the suit in one of the modes prescribed in that behalf by sections ~~28~~ ~~27~~ 28 and ~~28~~ 29 or ~~29~~ make such other order as it thinks fit.

Adjourment in view to amicable settlement of for other cause.

CHAPTER VI

OF THE DECREE AND ITS EXECUTION.

43 ~~42.~~ When the parties or their agents have been heard, and the evidence on both sides considered, the village court shall pass such decree as may seem just, equitable and according to good conscience.

onclusion of hearing, t to pass decree.

conscience.

43 ~~45.~~ The decree shall contain the number of the suit, the names of the parties, the particulars of the claim, the names of the witnesses examined, ~~the titles examined,~~ the titles of the exhibits read, the decision thereon, and the reasons for such decision. It shall specify the sum of money ~~adjudged~~ adjudged, the moveable property to be delivered, the sum to be paid in default of delivery, and the amount of costs to be paid and by what parties and in what ~~proportions~~ proportions such costs shall be paid.

Contents of decree.

The decree shall be dated on the day on which it is passed, and signed by the village Munsiff. When the suit has been heard by a Bench, the decree shall be signed by the members of such Bench concurring therewith. Each party shall be entitled to receive a copy of the decree on application.

45 ~~44.~~ In suits for money, the village court may decree interest on the sum de-

Decree may award interest or order payment by instalments.

de reed

decreed not exceeding 12 per cent per annum from date of suit till date of payment.

When a village court decrees the payment of a sum of money it may direct that it be paid by instalments, with or without interest at the above rate.

46 ~~45.~~ The decree shall be executed by the village court which passed it or by a village court or Munsiff to whom it is sent for execution under the provisions hereinafter contained.

Court by which decree may be executed.

47 ~~46.~~ If the decree is for any specific movable it may be enforced by the seizure of the property, and its delivery to the decree-holder. If the seizure of the property is not practicable, the decree shall be executed by enforcing payment of the sum decreed as an alternative.

Decree for specific movable how executed.

48 ~~47.~~ All money payable under a decree passed by a village court shall be paid to the decree-holder or his agent specially authorised in writing, in the presence of the village Munsiff whose duty it is to

Payment of money under a decree or other adjustment to be made or recorded in presence of Village Munsiff.

execute

execute the decree; but if the decree is otherwise adjusted to the satisfaction of the decree-holder, the nature of such adjustment shall be recorded in writing, and signed by him or his agent in the presence of, and attested by, such Village Munsiff.

Such payment or adjustment shall be endorsed by the Village Munsiff on the decree, and recorded in the register of ~~suits~~ suits mentioned in section 7.

No payment under a decree and no adjustment of a decree in whole or in part, shall be recognised, unless it has been made or recorded in the manner prescribed by this section or in the court of the Munsiff.

Judgment ~~debtor~~ not to be arrested nor immoveable property attached.

49. ~~48.~~ Subject to the provisions of sections ~~63~~ 64 and ~~64~~ 65 ~~65~~ no judgment debtor shall be arrested and no immoveable property attached in execution of a decree of a Village --- Court.

Attachment of moveable property.

~~50~~ 49. On the application of the decree-holder, the Village Court shall attach any

moveable

moveable property within its jurisdiction belonging to the judgment debtor pointed out by the decree holder to the value of the sum payable under the decree: provided that the following properties shall not be liable to such attachment viz,

(a) the necessary wearing apparel, bed and bedding of the judgment debtor, his wife and children.

(b) Tools of artizans and, where the judgment debtor is an agriculturist, his implements of husbandry and such cattle and seed grain as may in the opinion of the court be necessary to enable him to earn his livelihood as such;

(c) Books of account;

(d) Stipends and gratuities payable to Military and Civil pensioners of Government and Political Pensions;

(e) The salary due to a public officer or to any servant of a railway company or local authority;

(f) The pay and allowances of persons to whom the native articles of war apply;

(g) The wages of labourers and domestic

domestic servants.

Attachment when property is in possession of judgment debtor.

57 ~~50~~. If the property is in the possession of the judgment debtor, it shall ~~should~~ be attached by actual seizure and the Village Munsiff shall provide for its safe custody. It may be left in the custody of the judgment -- debtor upon sufficient security being given in writing for its production when required. On default, the decree may be executed ~~on~~ against the surety to the value of the property not produced.

Attachment when such property not in possession of ~~the~~ judgment debtor.

58 ~~51~~. If the property is not in the possession of the judgment debtor, the attachment shall be made by a written order prohibiting the person in possession of the property from giving it over to the judgment debtor.

Debts how attached.

59 ~~52~~. Debts and moneys due to the judgment debtor shall be attached by a written order prohibiting the judgment debtor from recovering the debt or receiving the sum of money and the debtor from making payment thereof, ~~and~~ until the further order of the Village Court. Nothing in this section

shall

shall be held to be authorised a Village Court to attach or sell a debt charged on immoveable property.

Private alienation of property after attachment to be void.

54 ~~53~~. When an attachment has been made by actual seizure, or by a written order, any private alienation of the property attached, whether by sale, gift, pledge or otherwise, and any payment of the debt to the judgment debtor, during the continuance of the attachment, shall be void, as against all claims enforceable under the attachment.

Investigation of claims to attached property.

55 ~~54~~. If any claim is preferred to property attached in execution of a decree, the village court shall investigate the claim, and if it appears that the judgment debtor has no saleable interest therein, such property shall be released from attachment.

Sale of attached property.

56 ~~55~~. As soon as possible after attachment, the Village Court shall fix a day ~~for~~ not less than 15 days from the date of attachment for the sale of the property attached and shall cause a written proclamation of the intended sale to be fixed outside the court, and such sale shall be further

~~further~~ proclaimed by beat of drum previous thereto.

Proviso.

Provided that (1) with the consent in writing of the judgment debtor, or (2) when the property seized is subject to -- speedy and natural decay, or (3) when the expense of keeping it in custody may exceed its value, the Court may, after giving due notice by beat of drum, sell the attached property at any time within fifteen days from the date of attachment. In such cases, the Court shall hold the sale proceeds -- subject to the provisions hereinafter made for payment of moneys attached in execution of decrees.

Procedure in sale.

57 ~~56~~. On the day fixed for the sale, the property shall be put up for sale by ~~the~~ public auction in the presence of the Village Munsiff and sold to the highest bidder. The price shall be paid without delay and in default the property shall again be put up to sale.

On payment of the purchase money, the

court

the court shall grant a receipt for the same, and the sale shall become absolute.

Any loss on resale shall, at the instance of either the judgment creditor or judgment debtor, be recoverable from the defaulter as if a decree had been passed against him for the same.

Power to adjourn Sales. 58 ~~57~~. Any sale advertised under this regulation may at the discretion of the court be adjourned to a specified day ~~date~~, ~~for the~~ public notice thereof being given in the manner ~~p~~ prescribed by section 56.

village Munsiff and Other Officers not to bid for or buy property sold. 59 ~~58~~. No village Munsiff or other officer having any duty to perform in connection with any sale under this regulation shall, either directly or indirectly, bid for or acquire any interest in any property sold at such sale.

Stoppage of Sale on tender of debt and costs. 60 ~~59~~. Every sale of property under this regulation shall be stopped if, before the lot is knocked down, the amount due under the decree and the cost attending the sale are tendered to the Village Munsiff.

Division of proceeds of Sale. ~~60~~. Out of moneys realised in execution, 61

the cost

the cost of execution shall first be defrayed and then the amount due to the decree-holder. Any surplus which may remain shall be paid to the judgment debtor.

Property actually seized to be delivered to purchaser.

62 ~~61.~~ When the property sold is one of ~~in~~ which actual seizure has been made, the ~~in~~ property shall be delivered to the purchaser.

Delivery of property to purchaser in other cases.

~~62.~~ 63 When the property sold is in the possession of any person other than the judgment debtor, or is a debt due by any person to the judgment debtor, delivery thereof to the purchaser shall be made by a written notice to such person, prohibiting him ~~in~~ from delivering possession of the property or paying the debt to any person except the purchaser, and whatever right the judgment debtor had in such property or debt at the time of attachment shall vest in the purchaser.

Transfer of decree for ~~in~~ execution to Munsiff.

~~63~~. 64 Any decree passed by a Village Court may, on the application of the decree-holder, be ~~remitted~~ transferred for execution to the Munsiff who may execute the same as

as if it were a decree passed by himself, or may transfer for execution to the court of any other village in which the defendant is represented to have moveable property. Such court shall proceed as if the decree was passed by itself.

Munsiff may withdraw execution of any decree.

65 ~~64.~~ It shall be competent to a Munsiff to withdraw for ~~good~~ just and sufficient cause the execution of any decree from any Village court and to execute it himself, as if it were a decree passed by himself.

Chapter VII.

M i s c e l l a n e o u s.

If on ~~the~~ death of party to suit application is made legal representative of deceased may be entered on record.

66 ~~65.~~ If a plaintiff or a defendant dies before decree is passed in the suit, the -- name of his legal representative may be entered in his place on the record on the application of the opposite party or of such legal representative, but no decree shall be passed against the legal representative of a deceased defendant beyond the value of the assets derived from him and not duly accounted for.

If no application made suit to be dismissed.

67 ~~66.~~ If no such application ~~be~~ is made within 60 days from the date of the death of the

~~of the~~ plaintiff or defendant, the suit shall be dismissed, and no fresh suit -- shall be allowed to be brought on the same cause of action.

If more than one plaintiff or defendant, suit to proceed at instance of or against survivor.

~~67.~~ 68 If there be more plaintiffs or defendants than one, and any of them dies and his representative is not joined as aforesaid, the suit shall proceed at the instance of the surviving plaintiff or plaintiffs or against the surviving defendant or defendants.

If decree-holder dies his legal representative may be substituted.

~~68.~~ 69 If a decree-holder dies before the decree has been fully executed, his legal representative may apply to the Village Court to substitute his name as the decree holder in the ~~room~~ place of the deceased, and if the court ~~be~~ is satisfied, after giving notie to the judgment debtor, that the applicant is the legal representative of the deceased, it shall substitute his name on the record as the decree-holder.

If judgment debtor dies, decree may be executed against his legal representative.

~~69.~~ 70 If a judgment debtor dies before the decree has been fully executed, it may be executed on the application of the

decree-holder against the legal representative of the judgment debtor to the extent ~~fo~~ of the assets derived from him and not duly accounted for.

Revision by Munsiffs of proceedings of Village courts.

71 ~~70.~~ The ~~A~~ Munsiff may, on a petition being presented within 60 days from the date of any decree or order of a village court by any party deeming himself aggrieved by such decree or order, set aside such decree or order on the ground -

Of corruption, gross partiality, or misconduct of the village court; or

Of its having exercised a jurisdiction not vested in it by law, or --- otherwise acted illegally or with material irregularity; or

that the decree or order is clearly unjust or contrary to law;

and may pass such other decree or order as he thinks fit; provided that no decree or order of a village court shall be set --- aside without notice to the opposite party. Pending disposal of any such petition, the Munsiff may stay execution of the decree or order.

A petition under this section may be

be entertained after 60 days by the Munsiff if he is satisfied with the cause -- shown for the delay.

Except as provided in this section, every decree and order of a village court shall be final.

Munsiff may and in certain cases shall report to District Judge.

72 ~~71~~. Whenever under section 71 ~~70~~ the Munsiff sets aside a decree or order he may report the case to the District Judge, and shall report every ~~ewey~~ case in which he sets aside a decree or order on the ground of corruption, gross partiality or misconduct.

Power of Chief Court to prescribe forms and of District Judge and Munsiff to inspect records.

73 ~~72~~. The Chief Court may, from time to -- time, prescribe forms for use in village courts and the returns which they shall be bound to submit . The District Judge or Munsiff may at any time call for and inspect the registers and records of Village Courts.

D.K.

THE VILLAGE COURTS BILL.

Statement of objects and reasons.

Representations have been made to Government from time to time by members of the Mysore Representative Assembly that people living in rural tracts are put to considerable trouble and inconvenience in their having to travel long distances for the institution and conduct of petty civil suits before the ordinary Civil Courts of the State. With a view to obviate these inconveniences and to minimise, as far as possible, the heavy expenditure which parties are obliged to incur and which in many cases is found to be quite out of all proportion to the value of the claim involved, the members have suggested the establishment of Villge Courts as in the neighbouring British Provinces. The suggestion has commended itself to the Chief Court as tending to the cheap and easy disposal of petty suits. Government agree in this view and consider that the proposal is one worthy of adoption.

2. The Bill is of an enabling character (Clause 1) and provides for the establishment of ~~the~~ Village Courts in specified areas (Sub-clause (3) of Clause 1) ~~&&&&&&&&&&&&&&&&&&&&~~ to be held before a Village Munsiff (clause 3) who shall be appointed from among the residents of the village by the Deputy Commissioner of the District (clause 4). Provision has also been made for trial by Bench of three members whenever either of the parties to the suit claims such a trial (clause 6). In such cases the decision of the Court shall follow the opinion of the majority.

The decision of a Village Court is not open to appeal; but powers of revision are vested in a Munsiff (clause 71) to whom also the parties may apply for transfer of the suits in certain cases. (cl.19

The ~~&&&&&&~~ Bill makes suitable provision ~~of~~ for the execution of decrees passed by a village court.

3. The Bill ~~However~~ differs from the Madras Act in the following particulars:-

Village Courts can take cognizance of certain classes of suits up to a pecuniary limit of ~~Rs~~ 20/- (cl. 10) and up to ~~Rs~~ 200/- on the Consent in writing of both parties (cl 11.) Suits in respect of immovable property and other suits in which important and complicated questions are likely to arise are excluded from the purview of these Courts (cl. 10). They are also incompetent to attach or sell immovable property or arrest the person of a judgment debtor in execution of decree (cl. 49)

(1). Under Section 9 of the Madras Act trial by a Bench is allowed only in regar to villages that may be specially notified. The Bill does not impose any such restriction but allows parties before any Village Court to claim trial by a Bench. Vide (Cluase 6).

(2) It is believed that the jurisdiction of Village Munsiff in Madras is not exclusive but only concurrent with that of the District Munsiff. But considering the main object of the Bill, it is deemed desirable to make the jurisdiction in these cases exclusive so that in areas where Village Courts are established, suits cognizable by those Courts shall not be instituted elsewhere (Clause 12)

(3) The Madras Act does not require that depositions of witnessess should be taken down in writing. But, as the decision in such cases of a Village Court is subject to revision by a Munsiff, it is necessary that there should be a record of the oral evidence tendered in the case so that the revising

21/7

Revising Court may, when necessary, exercise an effective control over the proceedings of the Village Court. With this object, clause 41 of the Bill directs that a memorandum of the substance of the evidence be taken by the Village Munsiff in his own writing (Cf. Rule 13, Order XVIII of the new C.P.C.) This provision is also likely to ensure a high sense of responsibiltiy in the members constituting the Village Court in the conduct of their proceedings.

(3). The Madras Act allows attachment of the salary of a Public Officer etc., when it exceeds Rs. 20/-. It is not considered desirable to allow any power to the Village Court in this respect. (Sub-clause (e) of the proviso to clause 50).

Legis 26/5/9 D. O. No. 2238

Serial 4

D.O. No. 1776

THE RESIDENT MYSORE

BANGALORE.

22nd March 1911.

Dear Dewan-sahib

I am desired to acknowledge the receipt of your D.O. letter No.1976, dated the 27th February 1911, forwarding a copy of a Bill to provide for the establishment of Village Courts in the Mysore State, and, in reply, to state that there is no prima facie objection to the Bill being laid before the Legislative Council.

Yours Sincerely

J. B. Wanchope.

T. Ananda Row, Esq., C.I.E.,

Dewan of Mysore.

K.M.
21.3.11.

G.R.S. 26]

Legis File No. 26-11

Serial No. 5

*Diary No. of letter replied to*_____

No. J 3079 Encls 4

General and Revenue Secretariat

( )

, *the* 19 .

To

The Registrar, Chief Court

of Mysore

Sir

Date of issue 20-4-12

Signed by Asst S. Hiriyannaiya

* with 3 spare copies

I am directed to forward herewith a copy of the Report of the select committee on the Village Courts Bill and to request you to kindly favor obtain ~~and forward~~ to Govt. with the opinion of ~~the Judges~~ of the chief Court thereon.

I have &c.

for Secretary to Govt.

over.

SW 6/4/12

SUBJECT.

Copied 9/4/12

~~Legis 26~~ Legis 26 of 1909-10 J 3387

No 4477/340 Serial 6 Chief Court of Mysore,

Bangalore, dated 20th June 1912.

21st

From,

The Registrar of the
Chief Court of Mysore,
B a n g a l o r e .

To,

The Secretary to Government,
General and Revenue Departments.

Sir,

With reference to your letter No: J 3079/Legis: 26 - 11 dated the 20th April 1912 forwarding for ~~opinion~~ the opinion of the Chief Court a copy of the Report of the Select Committee on the Village Courts Bill I am directed to state as follows:-

In the new proviso to sub section (3) of section 6 "or" should apparently be "and".

In section 13 (last line) for 'have been executed' the expression 'have been satisfied' may be substituted, the use of the term 'executed' being ambiguous. Cf: Section 479 of the old Code with O. 38 r. 2 of the new Code of Civil procedure.

The words 'or affirmation' in section 42 might be omitted, Under the General Clause Regulation 'oath' includes 'affirmation'.

I have the honor to be,
Sir,
your most obdeient servant.

Registrar.

P.L.

187

ab 6.13

G.R.S. 26]

Legis File No. 26-09
Serial No. 8

Diary No. of letter replied to

Pol No. 1040/Accts
Sir

General and Revenue Secretariat
( )
, *the* 19 ..

To
The F. A. Resident
in Mysore, Bangalore
Sir

Date of issue 13.6.13

Signed by Sri D. M. Narasimha Rao. I am directed to forward herewith ~~a copy of~~ a bill for the establishment of Village Courts in Mysore as adopted by the Mysore Legis. commit and to state as follows:-

with a spare copy
7 IV

2. Representations were made to Govt from time to time by the members of the Mysore Representative Assembly that people living in the

over.

SUBJECT.

6/11/16

rural tracts are put to
considerable trouble and
inconvenience in their
having to travel long
distances for the institution
and conduct of petty
civil suits before the ordinary
civil courts of the state. With
a view to ~~obviate these in~~ afford relief in such cases,
~~conveniences~~ and to minimize
as far as possible, the heavy
expenditure which parties
are obliged to incur and
which in many cases is found
to be quite out of all proportion
to the value of the claim
involved, the members
suggested the establish-
ment of Village courts as
in the neighbouring
British Provinces. The
suggestion having
commended itself to
the Chief Court as
tending to the cheap

List of enclosures,

Encl. in

Copied by

Examined by

GPB—10,000—28-2-11.

and easy disposal of petty suits, Govern the Durbar agreed in this view and considered that the proposal was one worthy of adoption. The present Bill was accordingly framed on the lines of the Madras Village Courts Act. I of 1889.

The Bill however differs from the Madras Act in the following particulars

(1) Under section 9 of the Madras Act, trial by a Bench is allowed only in regard to villages that may be specially notified. The Bill does not impose any such restriction but allows parties before any village Court to claim

GPB—10,000—22-2-11

trial by a Bench (vide clause 6)

(2) The jurisdiction of a Village Munsiff in Madras does not seem to be exclusive but only concurrent with that of the District Munsiff and considering the main Object of the Bill, it is deemed desirable to make the jurisdiction in these cases exclusive, so that in areas where Village Courts are established, suits cognizable by those courts shall not be instituted elsewhere (clause 12)

(3) The Madras Act allows the attachment of the salary of a public officer, &c., when it exceeds Rs20. It is not considered desirable to allow any power to the Village court in this respect (sub-clause (e) of the proviso

G.R.S. 27] Flag P

GENERAL AND REVENUE SECRETARIAT.

Ist.

(*Continuation Sheet draft form.*)

to clause 5-2

The bill, ~~(copy enclosed for ready reference)~~ was placed before the Legislative council at the meetings held on the 27th April 1911 and 11th Sept: 1911 and was then referred to a select committee for consideration and report.

Flags Q and R

After a careful consideration of the measure, the select committee recommended certain changes which have been fully explained in their report (copy enclosed) The recommendations of the select committee were considered at the meeting of the Legislative council held on the 4th April 1913 when

Flag O

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GPB—10,000—22-2-11

they were adopted by the council with a few alterations with respect to clauses 2, 6, 13, 14, 15, 30, 31, 33, new clause 41, 51 and 66.

~~I am now to forward~~ ~~a copy of the Bill as adopted by the Legislative Council and to request~~ I am now to request that the sanction of the Government of India may be obtained to the Bill being passed into law.

~~a copy of the Bill as adopted by the Legislative Council and to request~~ ~~i with a spare copy~~

I have &c.

Sd/-
~~Offg~~ Secretary to Govt
3115

7/6/15

Enclosures six
cb.
Ex.
CP

Hall
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No. 340—*L. C., dated 5th May* 1911.

1. A Bill to provide for the establishment of Village Courts in Mysore.
2. A Bill to amend the law relating to Partition in Mysore.

Under Rule 31 of the Rules for the conduct of business of the Mysore Legislative Council, the marginally noted Bills are published for general information with statements of objects and reasons.

By Order,
S. HIRIYANNAIYA,
Secretary, Mysore Legislative Council.

A Bill for the establishment of Village Courts in Mysore.

Whereas it is expedient to provide for the establishment of Village Courts in Mysore; His Highness the Maharaja is pleased to enact as follows :—

Preamble.

CHAPTER I.

Preliminary.

Title, commencement and Local extent.

1. (1) This Regulation may be called "The Mysore Village Courts Regulation, 19 ."

(2) It shall come into force on the first day of 19 .

(3) It shall extend to such village or villages in Mysore as may from time to time be notified by Government in the Official Gazette.

Interpretation Clause.

2. In this Regulation, unless there is something repugnant in the subject or context,—

"Village."

"Village" means a local area recognized by Government from time to time as a village for purposes of collecting the land revenue and includes any area for which a Village Court may be established under this Regulation.

"Village Munsiff."

"Village Munsiff" means the Judge of the Court of a Village Munsiff established under this Regulation.

"Village Court."

"Village Court" shall include a Bench constituted under section 6.

"District Judge" and "Munsiff."

"District Judge" or "Munsiff" means the District Judge or Munsiff within the local limits of whose jurisdiction the Village Court is situate.

CHAPTER II

Establishment and Constitution of Village Courts.

Establishment of Village Courts.

3. The Government may, from time to time, by notification published in the Official Gazette,—

(1) establish a Village Court for any village or specified area;

(2) group two or more villages and establish a Village Court for them;

(3) constitute divisions in any village and establish a separate Village Court for each of such divisions.

A Village Court established under this Regulation shall be held before a Village Munsiff appointed, or a Bench of more than one Judge constituted, as hereinafter provided.

4. Village Munsiffs shall be appointed by the Deputy Commissioner of the District subject to such rules as the Government may from time to time prescribe; provided that no person not residing within the village shall be eligible for that office.

Appointment of Village Munsiffs.

5. The Deputy Commissioner of the District may suspend or remove a Village Munsiff for incapacity, neglect of duty, misconduct, or other just and sufficient cause, and shall do so, on a requisition made by the District Judge for like cause appearing in the judicial proceedings of a Village Munsiff.

Suspension or removal of Village Munsiff.

From every order suspending or removing a Village Munsiff, an appeal may be preferred within three months to the Revenue Commissioner if the order was passed by the Deputy Commissioner without the orders from the District Judge, or to the Chief Court, if passed upon such orders. The decision of the Revenue Commissioner or the Chief Court, as the case may be, on all such appeals shall be final.

Appeals from the above orders to whom lie.

6. (1) For every village in respect of which a Village Court is constituted, and subject to any rules which the Government may make on this behalf, the Deputy Commissioner shall prepare and maintain a list of persons residing in the village and qualified to sit as members of a Bench for the trial of suits brought under this Regulation. Such list shall also be hung up in the Court-house of the Village Munsiff.

Provisions concerning Benches.

List of persons qualified to serve as members of a Bench.

(2) In any suit which may be instituted before a Village Court under this Regulation, the plaintiff in his plaint or the defendant in his answer may claim that the suit shall, instead of being tried by the Village Munsiff, be tried by a Bench of three judges, and nominate as a member of such Bench any person named in the list mentioned in clause (1); provided that such person is not his servant, dependent, relative or tenant, or personally interested in the result of the suit.

Either party to a suit may claim a trial by Bench.

(3) When the plaintiff has nominated such a person in his plaint, the defendant shall, by the summons, be requested to nominate one also. When the defendant has demanded a Bench and nominated such a person, the plaintiff shall be required to nominate one also. When any person nominated to serve on a Bench declines or is unable to act, the party who nominated him shall be required to make a fresh nomination.

If a requisition under this clause has not been complied with within two clear days after it is made, the Village Munsiff shall himself select from the list a person to serve on the Bench on behalf of the party so making default.

(4) The Village Munsiff shall summon the two persons nominated or selected as aforesaid to sit together with himself for the trial of the suit.

Member of Bench to be summoned by Village Munsiff.

(5) The Village Munsiff shall be the President of such Bench and shall regulate the procedure and issue all summonses, notices and the like in his own name, but the decree shall run in the name of all the three members of the Bench. If the members of the Bench cannot agree, the opinion of the majority shall prevail.

Procedure.

(6) No person summoned under this section to serve on a Bench shall be bound to sit for more than three days in a month; provided that every such person shall be bound to attend the trial of any case which has been commenced before him until its completion.

Liability to serve on Bench.

(7) Whoever, being duly summoned under this section to serve on a Bench, declines or omits to do so, without reasonable excuse, shall, on conviction before a Magistrate, be liable to a fine not exceeding Rs. 20.

Penalty for refusing or omitting to serve.

7. The Village Munsiff shall keep a register of suits filed in the Village Court and shall write the proceedings of the Court, and may, if necessary, employ any person in the village to assist him in keeping the register and in writing the proceedings.

Register of suits filed and record of proceedings held before Village Courts.

Service of summonses, etc.

8. It shall be the duty of the village servant usually employed in carrying messages to serve all summonses, notices and orders issued under this Regulation and to act under the orders of the Village Munsiff in seizing, delivering and selling movable properties attached under this Regulation.

Power of Deputy Commissioner to appoint persons to perform duties mentioned in sections 7 and 8.

9. The Deputy Commissioner of the district may, with the previous sanction of Government, appoint any other person to perform the duties prescribed by sections 7 and 8, respectively.

CHAPTER III.

Jurisdiction, Res Judicata and Limitation.

Cognizance of suits by Village Courts.

10. The following are the suits which shall be cognizable by Village Courts, namely :—

Claims based on contract for money due, or claims for personal property, or for the value of such property, when the debt or demand does not exceed in amount or value the sum of rupees twenty, whether on balance of account or otherwise.

Proviso.

Provided that no action shall be brought in any such Court—

(1) on a balance of partnership account unless the balance shall have been struck by the parties or their agents;

(2) for a share or part of a share under an intestacy, or for a legacy or part of a legacy under a will;

(3) for the rent for land unless such rent is due upon a written contract signed by the defendant;

(4) by or against Government or public officers in their official capacity;

(5) by and against minors or persons of unsound mind.

Jurisdiction with consent.

11. With the written consent of both parties executed before the Court, a Village Court may hear and determine suits of the nature described in section 10, the amount or value of which shall not exceed Rs. 200.

Exclusive jurisdiction of Village Courts in cases cognisable by such Courts.

12. No suit cognisable by the Village Munsiff under this Regulation shall be entertained, heard or determined in any other Court having jurisdiction within the local limits of the jurisdiction of such Village Munsiff's Court.

Proviso.

Provided that all such cases pending in any Court at the time this Regulation comes into force shall be heard and determined by such Court and decrees passed in suits, which shall not have been executed prior to such time, shall be executed by such Courts.

Court in which suits to be instituted.

13. Subject to the provisions contained in section 14, every suit brought under this Regulation shall be institituted in the Court of the Village Munsiff within the local limits of whose jurisdiction all the defendants at the time of the commencement of the suit reside or carry on business or personally work for gain.

Suits in which the Court is personally interested.

14. No Village Munsiff shall try any suit to which he is a party, or in which he is personally interested, or shall adjudicate upon any proceeding connected with or arising out of such suit. Every such suit or proceeding may be instituted in the Court of the Munsiff of any village immediately adjoining.

Res Judicata.

15. No Village Court shall try any suit brought on a cause of action which has been heard and determined by a Court of competent jurisdiction, in a former suit, between the same parties, or those under whom they claim.

16. Every suit instituted in a Village Court shall include the whole of the claim which the plaintiff is entitled to make in respect of the cause of action, but he may relinquish any portion of his claim in order to bring the suit within the jurisdiction of such Court.

Suit to include whole claim.

If a plaintiff omits to sue in respect of, or intentionally relinquishes, any portion of his claim, he shall be precluded from bringing a fresh suit for, or in respect of, the portion so omitted or relinquished.

Relinquishment of part of claim.

17. If in the decision of a suit cognisable by a Village Court under sections 10 and 13 it becomes necessary to decide incidentally any matter in dispute between the parties to the suit concerning title to immovable property, or the legal character of either of them, or of those under whom they claim, or the existence of any contract or obligation, which, if it had been the immediate subject matter of the suit, would not be cognisable under this Regulation by a Village Court, it shall be competent to the Village Court to decide such question of title, legal character, contract or obligation as far as may be necessary for the determination of such suit, but such decision shall not be evidence of such title, legal character, contract or obligation in any other action, though between the same parties or their representatives.

Incidental determination of matters not cognisable by Village Courts.

18. The provisions of the Mysore Limitation Regulation shall apply to suits and applications under this Regulation.

Limitation.

Provided that no suit or application shall be entertained by a Village Court after the expiration of three years from the time when the right to sue or make the application first accrued.

Proviso.

19. The Munsiff may, on the application of any of the parties, withdraw, for just and sufficient cause, any suit from a Village Court and try the suit himself, as if it had been instituted in his Court, or transfer it for trial to any other Village Court within the local limits of his jurisdiction.

Transfer of suits.

Provided that any party applying to have a suit withdrawn from a Village Court and tried by the Munsiff shall, before any such order of transfer is made, pay the amount of the fees payable under the Mysore Court Fees Regulation, 1900, in respect thereof.

CHAPTER IV.

Of the Institution and Frame of suits, Recognized Agents, the issue and Service of Summons on Parties, Adjournment and Consequences of non-appearance.

20. Every suit under this Regulation shall be instituted by presenting a plaint to the Village Munsiff together with as many copies thereof as there are defendants. One copy shall be delivered or affixed as hereinafter provided together with the copy of the summons.

Suit to be commenced by plaint.

21. The plaint shall be written in Kannada and signed by the plaintiff or in his absence by an agent duly authorised by him, and it shall contain the following particulars,—

Particulars to be contained in plaint.

(*a*) the name, description and residence of the plaintiff and defendant:

(*b*) A concise statement of the cause of action and when it arose:

(*c*) The relief prayed for and the total amount or value of the claim.

22. No advocate or pleader shall as such be permitted to appear on behalf of any party to a suit before a Village Court, but any party to any such suit may appoint by vakalatnama any relative, servant, friend or dependant to appear and plead for him. It shall however be competent to the Village Munsiff

Appearance in person or by agent.

whenever he thinks it necessary for the ends of justice, to order the personal attendance of any of the parties to the suit; and if the party so ordered does not attend in person, he shall be subject to the same consequences as if he did not appear either in person or by an agent.

Registry of plaint and issue of summons.

23. When the plaint has been duly presented, the Village Munsiff shall cause it to be registered and shall, by a summons in writing, require the defendant to appear and answer the claim on a specified day.

The summons shall be accompanied by a copy of the plaint and shall require the defendant to bring his witnesses, if any, on the date fixed for hearing, the plaintiff being likewise directed to appear on that date with his witnesses.

The summons shall be served on the defendant personally and a copy thereof delivered to him.

Mode of service when defendant evades service.

24. If the Village Munsiff is satisfied that the defendant is evading service of the summons, the Village Munsiff may order that it be served upon, and a copy thereof delivered to, an adult male member of the family of the defendant residing with him, or that a copy thereof be affixed upon some conspicuous part of the house in which he generally resides and another copy to the court-house of the Village Munsiff.

Mode of service when defendant is beyond local jurisdiction of Court.

25. Whenever it may be necessary to serve the summons upon a defendant beyond the local jurisdiction of the Village Court, it shall be forwarded to the Munsiff, who shall cause it to be served as if it had been a summons issued by himself, and shall then return it to the Village Court, together with a report of such service. Such report shall be *prima facie* evidence of the facts stated therein.

Procedure if defendant does not appear.

26. If a defendant does not appear in person or by agent on the day fixed, and it is proved that the summons was duly served, the Village Court may proceed *ex parte*.

If it is not proved that the summons was duly served, the Village Munsiff shall issue a fresh summons.

Every defendant may claim two clear days' notice of suit, and if the summons was not served in sufficient time to enable him to answer on the day fixed, the hearing shall be adjourned to a future day, of which due notice shall be given to defendant.

Process to be served at expense of party issuing.

27. Every summons served under this Regulation otherwise than by the village servant shall be served at the expense of the party on whose behalf it is issued and the amount of fee leviable for such service shall be fixed by Government from time to time and shall be levied by the Village Munsiff in such manner and subject to such rules as may be prescribed in that behalf by the Government.

Procedure where plaintiff does not appear and defendant does not admit claim or where summons is not served through plaintiff's default.

28. If on the day fixed for the defendant to appear—

(1) neither party appears, or

(2) the plaintiff does not appear and the defendant appears and does not admit the claim, or

(3) the summons has not been served owing to the plaintiff's default and the defendant does not appear,

the suit shall be dismissed unless the Village Court, for good and sufficient cause, otherwise directs.

Procedure where plaintiff does not appear and defendant admits claim.

29. If the plaintiff does not appear but the defendant appears and admits the claim wholly or in part, the Village Court shall pass judgment against the defendant in accordance with such admission, provided that, when only a part of the claim is admitted, the Court may adjourn the hearing to a future day.

30. Whenever a suit is dismissed under clause (1) or clause (3) of section 28, the plaintiff may bring a fresh suit, and if within 30 days from the date of an order under clause (2) of section 28 dismissing the suit or of a decree passed for only a part of the claim under section 29 the plaintiff satisfies the Village Court that he was prevented by any sufficient cause from appearing, the Court shall set aside the dismissal or the decree and shall appoint a day for proceeding with the suit.

Setting aside order under section 28 or 29 on cause shown.

31. Any defendant against whom a decree has been passed *ex parte* may, within 30 days from the date of executing any process for its enforcement, apply to the Village Court to set it aside; and if satisfied that the summons or notice was not duly served or that the defendant was prevented by any sufficient cause from appearing, the Court shall set aside the decree and shall appoint a day for proceeding with the suit.

Setting aside *ex parte* decree against defendant.

32. No decree shall be set aside on any application under section 30 or section 31 unless notice has been served on the opposite party.

No decree to be set aside without notice to opposite party.

CHAPTER V.

Of the Hearing, Withdrawal or Compromise of Suits, and of the Summoning and Examination of Witnesses.

33. When the defendant appears, the Court shall ascertain from him whether he admits the claim made in the plaint. If he admits the claim, or if the suit is compromised, such admission or compromise shall be recorded in writing and signed by the parties, and the Court shall pass a decree in accordance therewith. If the defendant does not admit the claim, he shall be required to state his objections either orally or in writing, and the Court may, if it thinks fit, adjourn the case to enable him to file a written statement.

Procedure on appearance of both parties.

34. If the plaintiff wishes to withdraw a suit, he shall signify the same in writing to the Court which shall strike the suit off the file and no fresh suit shall be brought on the same cause of action.

Withdrawal of suit.

35. If either party is willing to let the suit be settled by the oath of the other, and such other party assents and takes the oath, the Court shall give judgment according to such oath.

When suit may be settled by oath.

36. The defendant may set off any amount legally due to him by the plaintiff, for which he could bring a suit in a Village Court. If such set-off is established, the decree shall be for any sum which finally appears to be due to either party.

Set-off.

37. When the defendant's statement has been made, the Court shall proceed to examine the truth of the claim, and shall summon the witnesses cited by either party who are not present.

Witnesses not present to be summoned.

38. Any witness residing within the jurisdiction of the Village Court may be summoned verbally or in writing. Any witness residing within 5 miles beyond the Court's jurisdiction may be summoned in writing, and such summons shall be served through the Village Munsiff within whose jurisdiction he resides, or if for such area there is no Village Court, through the Court of the Munsiff within whose jurisdiction the witness resides. If any witness resides more than 5 miles beyond the jurisdiction, the Court may call on the parties to frame written interrogatories and shall forward such interrogatories with a letter to the Village Munsiff within whose jurisdiction the witness resides and such Munsiff shall forthwith summon and examine the witness upon the interrogatories, and shall return his answers to the Court in which the suit is pending.

Summons to witnesses how served.

Interrogatories.

39. A summons may direct the party summoned either to appear and give evidence or to produce or cause the production of a document.

Summons to appear and give evidence or produce document.

40. Women who, according to the customs and manners of the country, ought not to be compelled to appear in public, persons exempted from personal appearance in Court, and any person who, by reason of sickness or bodily infirmity, cannot attend without serious inconvenience, shall not be summoned; but when the evidence of any such person is necessary, the Village Court shall examine such person at his or her residence.

Exemption of certain persons from personal appearance.

41. Witnesses shall be examined on oath or affirmation, but it shall not be necessary for a Village Court to take down depositions of witnesses in writing.

Examination of witnesses.

42. If it appears likely that the parties will settle the matter amicably, or for any other sufficient cause, the Village Court may adjourn the hearing to a day to be fixed in the presence of the parties or in cases in which the defendant does not appear, in the presence of the plaintiff. If, on such day, the parties or any of them fail to appear, the Village Court may proceed to dispose of the suit in one of the modes prescribed in that behalf by sections 28 and 29, or make such other order as it thinks fit.

Adjournment in view to amicable settlement or for other cause.

CHAPTER VI.

Of the Decree and its Execution.

43. When the parties or their agents have been heard, and the evidence on both sides considered, the Village Court shall pass such a decree as may seem just, equitable and according to good conscience.

On conclusion of hearing, Court to pass decree.

44. The decree shall contain the number of the suit, the names of the parties, the particulars of the claim, the names of the witnesses examined, the titles of the exhibits read, the decision thereon, and the reasons for such decision. It shall specify the sum of money adjudged, the movable property to be delivered, the sum to be paid in default of delivery, and the amount of costs to be paid and by what parties and in what proportions such costs shall be paid.

Contents of decree.

The decree shall be dated on the day on which it is passed, and signed by the Village Munsiff. When the suit has been heard by a Bench, the decree shall be signed by the members of such Bench concurring therewith. Each party shall be entitled to receive a copy of the decree on application.

45. In suits for money, the Village Court may decree interest on the sum decreed not exceeding 12 per cent per annum from date of suit till date of payment.

Decree may award interest or order payment by instalments.

When a Village Court decrees the payment of a sum of money it may direct that it be paid by instalments, with or without interest at the above rate.

46. The decree shall be executed by the Village Court which passed it or by a Village Court or Munsiff to whom it is sent for execution under the provisions hereinafter contained.

Court by which decree may be executed.

47. If the decree is for any specific movable it may be enforced by the seizure of the property, and its delivery to the decree-holder. If the seizure of the property is not practicable, the decree shall be executed by enforcing payment of the sum decreed as an alternative.

Decree for specific movable how executed.

48. All money payable under a decree passed by a Village Court shall be paid to the decree-holder or his agent specially authorized in writing, in the presence of the Village Munsiff whose duty it is to execute the decree; but if the decree is otherwise adjusted to the satisfaction of the decree-holder, the nature of such adjustment shall be recorded in writing, and signed by him or his agent in the presence of, and attested by, such Village Munsiff.

Payment of money under a decree or other adjustment to be made or recorded in the presence of the Village Munsiff.

Such payment or adjustment shall be endorsed by the Village Munsiff on the decree, and recorded in the register of suits mentioned in section 7.

No payment under a decree, and no adjustment of a decree in whole or in part, shall be recognised, unless it has been made or recorded in the manner prescribed by this section or in the Court of the Munsiff.

49. Subject to the provisions of sections 64 and 65, no judgment-debtor shall be arrested and no immovable property attached in execution of a decree of a Village Court.

Judgment-debtor not to be arrested nor immovable property attached.

50. On the application of the decree-holder, the Village Court shall attach any movable property within its jurisdiction belonging to the judgment-debtor pointed out by the decree-holder to the value of the sum payable under the decree: provided that the following properties shall not be liable to such attachment, *viz.*,

Attachment of movable property.

(*a*) the necessary wearing apparel, bed and bedding of the judgment-debtor, his wife and children;

(*b*) tools of artizans and, where the judgment-debtor is an agriculturist, his implements of husbandry and such cattle and seed grain as may, in the opinion of the Court, be necessary to enable him to earn his livelihood as such;

(*c*) books of account;

(*d*) stipends and gratuities payable to Military and Civil pensioners of Government and political pensions;

(*e*) the salary due to a public officer or to any servant of a Railway Company or local authority;

(*f*) the pay and allowances of persons to whom the Native Articles of War apply;

(*g*) the wages of labourers and domestic servants.

51. If the property is in the possession of the judgment-debtor, it shall be attached by actual seizure and the Village Munsiff shall provide for its safe custody. It may be left in the custody of the judgment-debtor upon sufficient security being given in writing for its production when required. On default, the decree may be executed against the surety to the value of the property not produced.

Attachment when property is in possession of the judgment-debtor.

52. If the property is not in the possession of the judgment-debtor, the attachment shall be made by a written order prohibiting the person in possession of the property from giving it over to the judgment-debtor.

Attachment when such property not in possession of judgment-debtor.

53. Debts and moneys due to the judgment-debtor shall be attached by a written order prohibiting the judgment-debtor from recovering the debt or receiving the sum of money and the debtor from making payment thereof, until the further order of the Village Court. Nothing in this section shall be held to authorise a Village Court to attach or sell a debt charged on immovable property.

Debts how attached.

54. When an attachment has been made by actual seizure, or by a written order, any private alienation of the property attached, whether by sale, gift, pledge or otherwise, and any payment of the debt to the judgment-debtor, during the continuance of the attachment, shall be void as against all claims enforceable under the attachment.

Private alienation of property after attachment to be void.

55. If any claim is preferred to property attached in execution of a decree, the Village Court shall investigate the claim, and if it appears that the judgment-debtor has no saleable interest therein, such property shall be released from attachment.

Investigation of claims to attached property.

56. As soon as possible after attachment, the Village Court shall fix a day not less than fifteen days from the date of attachment for the sale of the property attached, and shall cause a written proclamation of the intended sale to be fixed outside the Court, and such sale shall be further proclaimed by beat of drum previous thereto.

Sale of attached property.

Provided that (1) with the consent in writing of the judgment-debtor, or (2) when the property seized is subject to speedy and natural decay, or (3) when the expense of keeping it in custody may exceed its value, the Court may, after giving due notice by beat of drum, sell the attached property at any time within fifteen days from the date of attachment. In such case, the Court shall hold the sale proceeds subject to the provisions hereinafter made for payment of moneys attached in execution of decrees

Proviso.

57. On the day fixed for the sale, the property shall be put up for sale by public auction in the presence of the Village Munsiff and sold to the highest bidder. The price shall be paid without delay and in default the property shall again be put to sale.

Procedure in sale.

On payment of the purchase money, the Court shall grant a receipt for the same, and the sale shall become absolute.

Any loss on resale shall, at the instance of either the judgment-creditor or judgment-debtor, be recoverable from the defaulter as if a decree had been passed against him for the same.

58. Any sale advertised under this Regulation may at the discretion of the Court be adjourned to a specified day, public notice thereof being given in the manner prescribed by section 56.

Power to adjourn sale.

59. No Village Munsiff or other officer having any duty to perform in connection with any sale under this Regulation shall, either directly or indirectly, bid for or acquire any property sold at such sale.

Village Munsiff and other officers not to bid for or buy property sold.

60. Every sale of property under this Regulation shall be stopped if, before the lot is knocked down, the amount due under the decree and the cost attending the sale are tendered to the Village Munsiff.

Stoppage of sale on tender of debt and costs.

61. Out of the moneys realised in execution, the cost of execution shall first be defrayed and then the amount due to the decree-holder. Any surplus which may remain shall be paid to the judgment-debtor.

Division of proceeds of sale.

62. When the property sold is one of which actual seizure has been made, the property shall be delivered to the purchaser.

Property actually seized to be delivered to purchaser.

63. When the property sold is in the possession of any person other than the judgment-debtor, or is a debt due by any person to the judgment-debtor, delivery thereof to the purchaser shall be made by a written notice to such person, prohibiting him from delivering possession of the property or paying the debt to any person except the purchaser, and whatever right the judgment-debtor had in such property or debt at the time of attachment shall vest in the purchaser

Delivery of property to purchaser in other cases.

64. Any decree passed by a Village Court may, on the application of the decree-holder, be transferred for execution to the Munsiff who may execute the same as if it were a decree passed by himself, or may transfer for execution to the Court of any other village in which the defendant is represented to have movable property. Such Court shall proceed as if the decree was passed by itself.

Transfer of decree for execution to Munsiff.

65. It shall be competent to a Munsiff to withdraw for just and sufficient cause the execution of any decree from any Village Court and to execute it himself, as if it were a decree passed hy himself.

Munsiff may withdraw execution of any decree.

CHAPTER VII.

Miscellaneous.

66. If a plaintiff or a defendant dies before decree is passed in the suit, the name of his legal representative may be entered in his place on the record on the application of the opposite party or of such legal representative, but no decree shall be passed against the legal representative of a deceased defendant beyond the value of the assets derived from him and not duly accounted for.

If on death of party to suit application is made, legal representative of deceased may be entered on record.

67. If no such application is made within sixty days from the date of the death of the plaintiff or defendant, the suit shall be dismissed, and no fresh suit shall be allowed to be brought on the same cause of action.

If no application made, suit to be dismissed.

68. If there be more plaintiffs or defendants than one, and any of them dies and his representative is not joined as aforesaid, the suit shall proceed at the instance of the surviving plaintiff or plaintiffs or against the surviving defendant or defendants.

If more than one plaintiff or defendant, suit to proceed at instance of or against survivor.

69. If a decree-holder dies before the decree has been fully executed, his legal representative may apply to the Village Court to substitute his name as the decree-holder in the place of the deceased, and if the Court is satisfied, after giving notice to the judgment-debtor, that the applicant is the legal representative of the deceased, it shall substitute his name on the record as the decree-holder.

If decree-holder dies, his legal representative may be substituted.

70. If a judgment-debtor dies before the decree has been fully executed, it may be executed on the application of the decree-holder against the legal representative of the judgment-debtor to the extent of the assets derived from him and not duly accounted for.

If judgment-debtor dies, decree may be executed against his legal representative.

71. The Munsiff may, on a petition being presented within sixty days from the date of any decree or order of a Village Court by any party deeming himself aggrieved by such decree or order, set aside such decree or order on the ground—

Revision by Munsiffs of proceedings of Village Courts.

of corruption, gross partiality, or misconduct of the Village Court; or

of its having exercised a jurisdiction not vested in it by law, or otherwise acted illegally or with material irregularity; or

that the decree or order is clearly unjust or contrary to law;

and may pass such other decree or order as he thinks fit;

provided that no decree or order of a Village Court shall be set aside without notice to the opposite party.

Pending disposal of any such petition, the Munsiff may stay execution of decree or order.

A petition under this section may be entertained after sixty days by the Munsiff if he is satisfied with the cause shown for the delay.

Except as provided in this section, every decree and order of a Village Court shall be final.

Munsiff may and in certain cases shall report to District Judge.

72. Whenever under section 71 the Munsiff sets aside a decree or order he may report the case to the District Judge, and shall report every case in which he sets aside a decree or order on the ground of corruption, gross partiality or misconduct.

Power of Chief Court to prescribe forms and of District Judge and Munsiff to inspect records.

73. The Chief Court may, from time to time, prescribe forms for use in Village Courts and the returns which they shall be bound to submit. The District Judge or Munsiff may at any time call for and inspect the registers and records of Village Courts.

STATEMENT OF OBJECTS AND REASONS.

Representations have been made to Government from time to time by the members of the Mysore Representative Assembly that people living in the rural tracts are put to considerable trouble and inconvenience in their having to travel long distances for the institution and conduct of petty civil suits before the ordinary Civil Courts of the State. With a view to obviate these inconveniences and to minimise, as far as possible, the heavy expenditure which parties are obliged to incur and which in many cases is found to be quite out of all proportion to the value of the claim involved, the members have suggested the establishment of Village Courts as in the neighbouring British Provinces. The suggestion has commended itself to the Chief Court as tending to the cheap and easy disposal of petty suits. Government agree in this view and consider that the proposal is one worthy of adoption.

2 The Bill is of an enabling character (clause 1) and provides for the establishment of Village Courts in specified areas [Sub-clause (3) of clause 1] to be held before a Village Munsiff (clause 3) who shall be appointed from among the residents of the village by the Deputy Commissioner of the District (clause 4). Provision has also been made for trial by a Bench of three members whenever either of the parties to the suit claims such a trial (clause 6). In such cases the decision of the Court shall follow the opinion of the majority. The Village Courts can take cognizance of certain classes of suits up to a pecuniary limit of Rs. 20 (clause 10) and up to Rs. 200 on the consent in writing of both parties (clause 11). Suits in respect of immovable property and other suits in which important and complicated questions are likely to arise are excluded from the purview of these Courts (clause 10). They are also incompetent to attach or sell immovable property or arrest the person of a judgment-debtor in execution of a decree (clause 49).

The decision of a Village Court is not open to appeal; but powers of revision are vested in the Munsiff (clause 71) to whom also the parties may apply for transfer of the suits in certain cases (clause 19).

The Bill makes suitable provision for the execution of decrees passed by a Village Court.

3. The Bill differs from the Madras Act in the following particulars:—

(1) Under section 9 of the Madras Act, trial by a Bench is allowed only in regard to villages that may be specially notified. The Bill does not impose any such restriction but allows parties before any Village Court to claim trial by a Bench (*vide* clause 6).

(2) The jurisdiction of a Village Munsiff in Madras does not seem to be exclusive but only concurrent with that of the District Munsiff. But considering the main object of the Bill, it is deemed desirable to make the jurisdiction in these cases exclusive, so that in areas where Village Courts are established, suits cognizable by those Courts shall not be instituted elsewhere (clause 12).

(3) The Madras Act allows of the attachment of the salary of a public officer, etc., when it exceeds Rs. 20. It is not considered desirable to allow any power to the Village Court in this respect [Sub-clause (*e*) of the proviso to clause 50].

Notification No. 169—L. C., dated Bangalore, the 8th April 1912.

Under Rule 40 of the Rules for the conduct of business of the Mysore Legislative Council, the following report of the Select Committee on the 'Village Courts Bill is published for general information with the Bill as amended by the Committee.

By Order,
S. HIRIYANNAIY
Secretary, Mysore Legislative Council.

REPORT OF THE SELECT COMMITTEE ON THE VILLAGE COURTS BILL.

We, the members of the Select Committee appointed to consider the Bill for the establishment of Village Courts in Mysore, have the honor to submit the following report to the Council :—

We have gone through the Bill carefully and recommend the following alterations.

Definitions.—The definitions of the expressions 'Village Court' and 'Village Munsiff' seem to us to be unnecessary and may only lead to confusion as they are hardly logical as they are worded. Clause 3 of the Bill describes clearly the meaning that has to be attached to both these expressions.

Clause 6.—The proviso contained in sub-clause 2 of this clause regarding certain disqualifications to serve as a member of a Bench of a Village Court applies as it now stands only in the case of nominations made under the circumstances narrated in this sub-clause. But the proviso is equally necessary in the case of nominations made in circumstances referred to in sub-clause (3). We, therefore, recommend that the proviso in sub-clause (2) be omitted and a new proviso in the following terms be inserted at the bottom of sub-clause (3) so as to apply to all nominations made under this section :—

"Provided that the person nominated under this section shall not be the servant, dependant, relative or tenant of the party on whose behalf he is nominated, or shall not be personally interested in the result of the suit."

Clause 10.—In sub-clause (4) of this clause, the words "Government or" may be omitted on the analogy of similar provisions made in the Civil Procedure Code. It is hardly likely that Government will have any occasion to sue as a plaintiff in a Village Court

Clause 14.—This clause requires that suits to which the Village Munsiff is a party or in which he is personally interested may be instituted in the Court of the Village Munsiff of an adjoining village. As the Bill does not contemplate the immediate establishment of Village Courts in all the villages in the State and as on this account there may be no Village Court in an adjoining village, we consider it desirable that suits referred to therein should be tried in the Court of the Munsiff having jurisdiction over the matter in dispute.

Clause 22.—This clause may be better recast as follows :—

'No agent except a relative or servant empowered by a written instrument shall be allowed to appear on behalf of any party to a suit in a Village Court; provided that in all cases a Village Court shall be competent to order the personal appearance of any party.'

Clause 26.—This clause may be shortened by the omission of para 3 and the addition of the words "at least two clear days before the day of the hearing" after "served" in para 1."

Clauses 30 and 31.—The period of limitation of thirty days provided for in these cases need not be mentioned here as due provision has been made for cases arising under both these clauses in Articles 163 and 164 of the first schedule to the Mysore Limitation Regulation.

Clause 38.—In this clause it is provided that summonses to witnesses residing within five miles beyond the jurisdiction of a Village Court are to be served through the Village Munsiff within whose jurisdiction they reside; or if for such village

there is no Village Court, through the Court of the Munsiff within whose jurisdiction they reside. We think that the latter provision requires a slight change. We consider it unnecessary that where there is no Village Court the summons to witnesses should be sent for service to the Court of the Munsiff which may happen to be situated at a considerable distance from the village. It would be convenient and contribute to speedy disposal of work if such summonses are served through the patel of the village in which the witness resides.

If the witness should happen to reside more than five miles beyond the jurisdiction of the Court, he has to be examined on written interrogatories by the Munsiff having jurisdiction over the village in which he usually resides. To provide for cases where the Court of a Munsiff may be too far away, we recommend that Amildars or Deputy Amildars of taluks may be empowered similarly to examine witnesses. The clause may therefore be recast as follows :—

"Any witness residing within the jurisdiction of the Village Court may be summoned verbally or in writing. Any witness residing within five miles beyond the Court's jurisdiction may be summoned in writing, and such summons shall be served through the Village Munsiff within whose jurisdiction he resides, or, if for such place there is no Village Court, through the patel of the village in which the witness resides. If any witness resides more than five miles beyond the jurisdiction, the Court may call on the parties to frame written interrogatories and shall forward such interrogatories with a letter to the Village Munsiff, or, if there is no Village Court for such place, to the Amildar or Deputy Amildar within whose jurisdiction the witness resides, and such Village Munsiff or Amildar or Deputy Amildar shall forthwith summon and examine the witness upon the interrogatories, and shall return his answers to the Court in which the suit is pending."

Clause 41.—It seems to be necessary to specifically provide here that witnesses should be examined in open Court.

Clause 50.—The provisions of this clause have been brought into line with those of Section 60 of the new Code of Civil Procedure, and the benefit of exemption from attachment has been extended as in that code to the cases mentioned in provisos (*o*), (*p*) and (*q*) of that section.

Clause 66.—This clause lays down that no decree shall be passed against the legal representative of a deceased defendant beyond the value of the assets derived from him and not duly accounted for; but we think it would be more correct to say, not that no decree should be passed but that the legal representative shall not be *answerable for any decree* that may be passed beyond the value of any property derived from him and not duly accounted for. The important point is that the decree should not be executed against the defendant beyond the assets received by him.

Clause 73.—As the power of appointment and dismissal of Village Munsiffs is vested in the Deputy Commissioner, we think it proper that the power to inspect the records of a Village Court should be conferred on the Deputy Commissioner also. We have changed this clause accordingly.

We have added two new clauses of some importance, *viz.*, clauses 8 and 75. The first provides for a seal being given to a Village Court for stamping summonses, decrees and copies of documents issued by it with a view to prevent fabrication of such documents, on the analogy of the provisions contained in the Civil Courts Regulation.

Clause 75 exempts plaints, petitions, and vakalatnamas presented under this Regulation from the payment of court fees. In Madras, only plaints are exempted, but we propose to extend the concession to vakalatnamas and petitions also.

The other changes made in the Bill are of a verbal character and call for no explanation.

In conclusion we recommend that the Bill as amended by us be passed by the Council.

BANGALORE,
7th February 1912.

H. V. Nanjundayya.
K. S. Doraswamy Iyer.
M. Narain Rao.
Syed Amir Hassan.

Mr. M. C. Rangiengar, who was also a member of the Select Committee, was unable to be present at the meeting.

A Bill for the establishment of Village Courts in Mysore.

(As amended by the Select Committee.)

[The portions in square brackets are those omitted and those in italics newly added by the Committee.]

Whereas it is expedient to provide for the establishment of Village Courts in Mysore; His Highness the Maharaja is pleased to enact as follows:—

Preamble.

CHAPTER I.

Preliminary.

Title, commencement and Local extent.

1. (1) This Regulation may be called "The Mysore Village Courts Regulation,

(2) It shall come into force on the first day of

(3) It shall extend to such village or villages in Mysore as may, from time to time, be notified by Government in the Official Gazette.

Interpretation Clause.

2. In this Regulation, unless there is something repugnant in the subject or context,—

"Village" means a local area recognized by Government from time to time as a village for purposes of collecting the land revenue and includes any area for which a Village Court may be established under this Regulation.

"Village."

["Village Munsiff."]

["Village Munsiff" means the Judge of the Court of a Village Munsiff established under this Regulation.]

["Village Court."]

["Village Court" shall include a Bench constituted under Section 6.]

"District Judge" and "Munsiff."

"District Judge" or "Munsiff" means the District Judge or Munsiff *appointed under the Mysore Civil Courts Regulation, I of 1883*, within the local limits of whose jurisdiction the Village Court is situate.

CHAPTER II.

Establishment and constitution of Village Courts.

Establishment of Village Courts.

3. The Government may, from time to time, by notification published in the Official Gazette,—

(1) establish a Village Court for any village or specified area;

(2) group two or more villages and establish a Village Court for them;

(3) constitute divisions in any village and establish a separate Village Court for each of such divisions.

A Village Court established under this Regulation shall be held before a Village Munsiff appointed, or a Bench of more than one Judge constituted, as hereinafter provided.

Appointment of Village Munsiffs.

4. Village Munsiffs shall be appointed by the Deputy Commissioner of the District subject to such rules as the Government may, from time to time, prescribe; provided that no person not residing within the village shall be eligible for that office.

Suspension or removal of Village Munsiff.

5. The Deputy Commissioner of the District may suspend or remove a Village Munsiff for incapacity, neglect of duty, misconduct, or other just and sufficient cause, and shall do so, on a requisition made by the District Judge for like cause appearing in the judicial proceedings of a Village Munsiff.

From every order suspending or removing a Village Munsiff, an appeal may be preferred within three months to the Revenue Commissioner if the order was passed by the Deputy Commissioner without [the orders] *a requisition* from the District Judge, or to the Chief Court, if passed upon such [orders] *requisition*. The decision of the Revenue Commissioner or the Chief Court, as the case may be, on all such appeals shall be final.

Appeals from the above orders to whom lie.

6. (1) For every village in respect of which a Village Court is constituted, and subject to any rules which the Government may make on this behalf, the Deputy Commissioner shall prepare and maintain a list of persons residing in the village and qualified to sit as members of a Bench for the trial of suits brought under this Regulation. Such list shall also be hung up in the Court-house of the Village Munsiff.

Provisions concerning Benches.

List of persons qualified to serve as members of a Bench.

(2) In any suit which may be instituted before a Village Court under this Regulation, the plaintiff in his plaint or the defendant in his answer may claim that the suit shall, instead of being tried by the Village Munsiff, be tried by a Bench of three Judges, and nominate as a member of such Bench any person named in the list mentioned in clause (1). [provided that such person is not his servant, dependant, relative or tenant, or personally interested in the result of the suit.]

Either party to a suit may claim a trial by Bench.

(3) When the plaintiff has nominated such a person in his plaint, the defendant shall, by the summons, be requested to nominate one also. When the defendant has demanded a Bench and nominated such a person, the plaintiff shall be required to nominate one also. When any person nominated to serve on a Bench declines or is unable to act, the party who nominated him shall be required to make a fresh nomination.

If a requisition under this clause has not been complied with within two clear days after it is made, the Village Munsiff shall himself select from the list a person to serve on the Bench on behalf of the party so making default.

Provided that the person nominated under this section shall not be the servant, dependent, relative or tenant of the party on whose behalf he is nominated, or shall not be personally interested in the result of the suit.

(4) The Village Munsiff shall summon the two persons nominated or selected as aforesaid to sit together with himself for the trial of the suit.

Member of Bench to be summoned by Village Munsiff.

(5) The Village Munsiff shall be the President of such Bench and shall regulate the procedure and issue all summonses, notices and the like in his own name, but the decree shall run in the name of all the three members of the Bench. If the members of the Bench cannot agree, the opinion of the majority shall prevail.

Procedure.

(6) No person summoned under this section to serve on a Bench shall be bound to sit for more than three days in a month; provided that every such person shall be bound to attend the trial of any case which has been commenced before him until its completion.

Liability to serve on Bench.

(7) Whoever, being duly summoned under this section to serve on a Bench, declines or omits to do so, without reasonable excuse, shall, on conviction before a Magistrate, be liable to a fine not exceeding Rs. 20.

Penalty for refusing or omitting to serve.

7. The Village Munsiff shall keep a register of suits filed in the Village Court and shall write the proceedings of the Court, and may, if necessary, employ any person in the village to assist him in keeping the register and in writing the proceedings.

Register of suits filed and record of proceedings held before Village Courts.

8. *Every Village Court shall use a seal with the name of the Court inscribed in Kannada characters and shall use it for stamping summonses, decrees and copies of documents issued by it.*

Seal.

[8.] *9.* It shall be the duty of the village servant usually employed in carrying messages to serve all summonses, notices and orders issued under this Regulation and to act under the orders of the Village Munsiff in seizing, delivering and selling movable properties attached under this Regulation.

Service of summonses, etc.

[9.] *10.* The Deputy Commissioner of the district may, with the previous sanction of Government, appoint any other person to perform the duties prescribed by sections 7 and [8] *9*, respectively.

Power of Deputy Commissioner to appoint persons to perform duties mentioned in sections 7 and [8] 9.

CHAPTER III.

Jurisdiction, Res Judicata and Limitation.

[10.] *11.* The following are the suits which shall be cognizable by Village Courts, namely:—

Cognizance of suits by Village Courts.

Claim based on contract for money due, or claims for [personal] *movable* property, or for the value of such property, when the debt or demand does not exceed in amount or value the sum of rupees twenty, whether on balance of account or otherwise.

Provided that no action shall be brought in any such Court—

Proviso.

(1) on a balance of partnership account unless the balance shall have been struck by the parties or their agents;

(2) for a share or part of a share under an intestacy, or for a legacy or part of a legacy under a will;

(3) for the rent for land unless such rent is due upon a written contract signed by the defendant;

(4) by or against [Government or] public officers in their official capacity;

(5) by and against minors or persons of unsound mind.

[11.] *12.* With the written consent of both parties executed before the Court, a Village Court may hear and determine suits of the nature discribed in section [10] *11*, the amount or value of which shall not exceed Rs. 200.

Jurisdiction with consent.

[12.] *13.* No suit cognisable by the Village Munsiff under this Regulation shall be entertained, heard or determined in any other Court having jurisdiction within the local limits of the jurisdiction of such Village Munsiff's Court.

Exclusive jurisdiction of Village Courts in cases cognisable by such Courts.

Provided that all such cases pending in any Court at the time this Regulation comes into force shall be heard and determined by such Court; and decrees passed in suits, which shall not have been executed prior to such time, shall be executed by such Courts.

Proviso.

[13.] *14.* Subject to the provisions contained in section [14] *15*, every suit brought under this Regulation shall be instituted in the Court of the Village Munsiff within the local limits of whose jurisdiction all the defendants at the time of the commencement of the suit reside or carry on business or personally work for gain.

Court in which suits to be instituted.

[14.] *15.* No Village Munsiff shall try any suit to which he is a party, or in which he is personally interested, or shall adjudicate upon any proceeding connected with or arising out of such suit. Every such suit or proceeding may be instituted in the Court of the Munsiff [of any village immediately adjoining] *having jurisdiction.*

Suits in which the Court is personally interested.

[15.] *16.* No Village Court shall try any suit brought on a cause of action which has been heard and determined by a Court of competent jurisdiction, in a former suit, between the same parties, or those under whom they claim.

Res Judicata.

[16.] *17.* Every suit instituted in a Village Court shall include the whole of the claim which the plaintiff is entitled to make in respect of the cause of action, but he may relinquish any portion of his claim in order to bring the suit within the jurisdiction of such Court.

Suit to include whole claim.

If a plaintiff omits to sue in respect of, or intentionally relinquishes, any portion of his claim, he shall be precluded from bringing a fresh suit for, or in respect of, the portion so omitted or relinquished.

Relinquishment of part of claim.

[17.] *18.* If in the decision of a suit cognisable by a Village Court under sections [10] *11* and [13] *14* it becomes necessary to decide incidentally any matter in dispute between the parties to the suit concerning title to immovable property, or the legal character of either of them, or of those under whom they claim, or the existence of any contract or obligation, which, if it had been the immediate subject matter of the suit, would not be cognisable under this Regulation by a Village Court, it shall be competent to the Village Court to decide such question of title, legal character, contract or obligation as far as may be necessary for the determination of such suit, but such decision shall not be evidence of such title, legal character, contract or obligation in any other action, though between the same parties or their representatives.

Incidental determination of matters not cognisable by Village Courts.

[18.] *19.* The provisions of the Mysore Limitation Regulation shall apply to suits and applications under this Regulation.

Limitation.

Provided that no suit or application shall be entertained by a Village Court after the expiration of three years from the time when the right to sue or make the application first accrued.

Proviso.

[19.] *20.* The Munsiff may, on the application of any of the parties, withdraw, for just and sufficient cause, any suit from a Village Court and try the suit himself, as if it had been instituted in his Court, or transfer it for trial to any other Village Court within the local limits of his jurisdiction.

Transfer of suits.

Provided that any party applying to have a suit withdrawn from a Village Court and tried by the Munsiff shall, before any such order of transfer is made, pay the amount of the fees payable under the Mysore Court Fees Regulation, 1900, in respect thereof.

CHAPTER IV.

Of the Institution and Frame of Suits, Recognized Agents, the Issue and Service of Summons on Parties, Adjournment and Consequences of Non-appearance.

[20.] *21.* Every suit under this Regulation shall be instituted by presenting a plaint to the Village Munsiff together with as many copies thereof as there are defendants. One copy shall be delivered or affixed as hereinafter provided together with the copy of the summons.

Suit to be commenced by plaint.

[21.] *22.* The plaint shall be written in Kannada and signed by the plaintiff or in his absence by an agent duly authorised by him, and it shall contain the following particulars,—

Particulars to be contained in plaint.

(*a*) the name, description and residence of the plaintiff and defendant:

(*b*) A concise statement of the cause of auction and when it arose:

(*c*) The relief prayed for and the total amount or value of the claim.

[22.] [No advocate or pleader shall as such be permitted to appear on behalf of any party to a suit before a Village Court, but any party to any such suit may appoint by vakalatnama any relative, servant, friend or dependant to appear and plead for him. It shall, however, be competent to the Village Munsiff whenever he thinks it necessary for

Appearance in person or by agent.

the ends of justice, to order the personal attendance of any of the parties to the suit; and if the party so ordered does not attend in person, he shall be subject to the same consequences as if he did not appear either in person or by an agent.]

23. No agent except a relative or servant empowered by a written instrument shall be allowed to appear on behalf of any party to a suit in a Village Court; provided that in all cases, a Village Court shall be competent to order the personal appearance of any party.

Registry of plaint and issue of summons.

[23.] *24.* When the plaint has been duly presented, the Village Munsiff shall cause it to be registered and shall, by a summons in writing, require the defendant to appear and answer the claim on a specified day.

The summons shall be accompanied by a copy of the plaint and shall require the defendant to bring his witnesses, if any, on the date fixed for hearing, the plaintiff being likewise directed to appear on that date with his witnesses.

The summons shall be served on the defendant personally and a copy thereof delivered to him.

Mode of service when defendant evades service.

[24.] *25.* If the Village Munsiff is satisfied that the defendant is evading service of the summons, the Village Munsiff may order that it be served upon, and a copy thereof delivered to, an adult male member of the family of the defendant residing with him, or that a copy thereof be affixed upon some conspicuous part of the house in which he generally resides and another copy to the court-house of the Village Munsiff.

Mode of service when defendant is beyond local jurisdiction of Court.

[25.] *26.* Whenever it may be necessary to serve the summons upon a defendant beyond the local jurisdiction of the Village Court, it shall be forwarded to the Munsiff, who shall cause it to be served as if it had been a summons issued by himself, and shall then return it to the Village Court, together with a report of such service. Such report shall be *primâ facie* evidence of the facts stated therein.

Procedure if defendant does not appear.

[26.] *27.* If a defendant does not appear in person or by agent on the day fixed, and it is proved that the summons was duly served *at least two clear days before the date of hearing*, the Village Court may proceed *ex parte.*

If it is not proved that the summons was duly served, the Village Munsiff shall issue a fresh summons.

[Every defendant may claim two clear days' notice of suit, and if the summons was not served in sufficient time to enable him to answer on the day fixed, the hearing shall be adjourned to a future day, of which due notice shall be given to defendant.]

Process to be served at expense of party issuing.

[27.] *28.* Every summons served under this Regulation otherwise than by the village servant shall be served at the expense of the party on whose behalf it is issued and the amount of fee leviable for such service shall be fixed by Government from time to time and shall be levied by the Village Munsiff in such manner and subject to such rules as may be prescribed in that behalf by [the] Government.

Procedure where plaintiff does not appear and defendant does not admit claim or where summons is not served through plaintiff's default.

[28.] *29.* If, on the day fixed for the defendant to appear,—

(1) neither party appears, or

(2) the plaintiff does not appear and the defendant appears and does not admit the claim, or

(3) the summons has not been served owing to the plaintiff's default and the defendant does not appear,

the suit shall be dismissed unless the Village Court, for good and sufficient cause, otherwise directs.

[29.] *30.* If the plaintiff does not appear but the defendant appears and admits the claim wholly or in part, the Village Court shall pass judgment against the defendant in accordance with such admission, provided that, when only a part of the claim is admitted, the Court may adjourn the hearing to a future day.

Procedure where plaintiff does not appear and defendant admits claim.

[30.] *31.* Whenever a suit is dismissed under clause (1) or clause (3) of section [28] *29*, the plaintiff may bring a fresh suit, and if within [30 days from the date of an order under clause (2) of section 28 dismissing the suit or of a decree passed for only a part of the claim under section 29] *the time allowed by the law of limitation* the plaintiff satisfies the Village Court that he was prevented by any sufficient cause from appearing, the Court shall set aside the dismissal or the decree and shall appoint a day for proceeding with the suit.

Setting aside order under Section [28] 29 or [29] 30 on cause shown.

[31.] *32.* Any defendant against whom a decree has been passed *ex parte* may, within [30 days from the date of executing any process for its enforcement] *the time allowed by the law of limitation*, apply to the Village Court to set it aside; and if satisfied that the summons or notice was not duly served or that the defendant was prevented by any sufficient cause from appearing, the Court shall set aside the decree and shall appoint a day for proceeding with the suit.

Setting aside *ex-parte* decree against defendant.

[32.] *33.* No decree shall be set aside on any application under section [30] *31* or section [31] *32* unless notice has been served on the opposite party.

No decree to be set aside without notice to opposite party.

CHAPTER V.

Of the Hearing, Withdrawal or Compromise of Suits, and of the Summoning and Examination of Witnesses.

[33.] *34.* When the defendant appears, the Court shall ascertain from him whether he admits the claim made in the plaint. If he admits the claim, or if the suit is compromised, such admission or compromise shall be recorded in writing and signed by the parties, and the Court shall pass a decree in accordance therewith. If the defendant does not admit the claim, he shall be required to state his objections either orally or in writing, and the Court may, if it thinks fit, adjourn the case to enable him to file a written statement.

Procedure on appearance of both parties.

[34.] *35.* If the plaintiff wishes to withdraw [a] *the* suit, he shall signify the same in writing to the Court which shall strike the suit off the file and no fresh suit shall be brought on the same cause of action.

Withdrawal of suit.

[35.] *36.* If either party is willing to let the suit be settled by the oath of the other, and such other party assents and takes the oath, the Court shall give judgment according to such oath.

When suit may be settled by oath.

[36.] *37.* The defendant may set off any amount legally due to him by the plaintiff, for which he could bring a suit in a Village Court. If such set-off is established, the decree shall be for any sum which finally appears to be due to either party.

Set-off.

[37.] *38.* When the defendant's statement has been made, the Court shall proceed to examine the truth of the claim, and shall summon the witnesses cited by either party who are not present.

Witnesses not present to be summoned.

[38.] *39.* Any witness residing within the jurisdiction of the Village Court may be summoned verbally or in writing. Any witness residing within 5 miles beyond the Court's jurisdiction may be summoned in writing, and such summons shall be served through the Village Munsiff within whose jurisdiction he resides, or if for such [area] *place* there is no Village Court, through the [Court of

Summons to witnesses how served

the Munsiff within whose jurisdiction] *the patel of the village in which* the witness resides. If any witness resides more than 5 miles beyond the jurisdiction, the Court may call on the parties to frame written interrogatories and shall forward such interrogatories with a letter to the Village Munsiff [within whose jurisdiction the witness resides] *or if there is no Village Court for such place, to the Amildar or Deputy Amildar within whose jurisdiction the witness resides*, and such *Village* Munsiff *or Amildar or Deputy Amildar* shall forthwith summon and examine the witness upon the interrogatories, and shall return his answers to the Court in which the suit is pending.

Interrogatories.

[39] *40.* A summons may direct the party summoned either to appear and give evidence or to produce or cause the production of a document.

Summons to appear and give evidence or produce document.

[40] *41.* Women who, according to the customs and manners of the country, ought not to be compelled to appear in public, persons exempted from personal appearance in Court, and any person who, by reason of sickness or bodily infirmity, cannot attend without serious inconvenience, shall not be summoned; but when the evidence of any such person is necessary, the Village Court shall examine such person at his or her residence.

Exemption of certain persons from personal appearance.

[41] *42.* Witnesses shall be examined *in open Court* on oath or affirmation, but it shall not be necessary for a Village Court to take down depositions of witnesses in writing.

Examination of witnesses.

[42] *43.* If it appears likely that the parties will settle the matter amicably, or for any other sufficient cause, the Village Court may adjourn the hearing to a day to be fixed in the presence of the parties or in cases in which the defendant does not appear, in the presence of the plantiff. If, on such day, the parties or any of them fail to appear, the Village Court may proceed to dispose of the suit in one of the modes prescribed in that behalf by sections [28] *29* and [29] *30*, or make such other order as it thinks fit.

Adjournment in view to amicable settlement or for other cause.

CHAPTER VI.

Of the Decree and its Execution.

[43] *44.* When the parties or their agents have been heard, and the evidence on both sides considered, the Village Court shall pass such [*a*] decree as may seem just, equitable and according to good conscience.

On conclusion of hearing, Court to pass decree.

[44] *45.* The decree shall contain the number of the suit, the names of the parties, the particulars of the claim, the names of the witnesses examined, the titles of the exhibits read, the decision thereon, and the reasons for such decision. It shall specify the sum of money adjudged, the movable property to be delivered, the sum to be paid in default of delivery, and the amount of costs to be paid and by what parties and in what proportions such costs shall be paid.

Contents of decree.

The decree shall be dated on the day on which it is passed, and signed by the Village Munsiff. When the suit has been heard by a Bench, the decree shall be signed by the members of such Bench concurring therewith. Each party shall be entitled to receive a copy of the decree on application.

[45] *46.* In suits for money, the Village Court may decree interest on the sum decreed not exceeding 12 per cent per annum from date of suit till date of payment.

Decree may award interest or order payment by instalments.

When a Village Court decrees the payment of a sum of money, it may direct that it be paid by instalments, with or without interest at the above rate.

[46] *47.* The decree shall be executed by the Village Court which passed it or by a Village Court or Munsiff to whom it is sent for execution under the provisions hereinafter contained.

Court by which decree may be executed.

[47 *48.* If the decree is for any specific movable, it may be enforced by the seizure of the property, and its delivery to the decree-holder. If the seizure of the property is not practicable, the decree shall be executed by enforcing payment of the sum decreed as an alternative.

Decree for specific movable how executed.

[48] *49.* All money payable under a decree passed by a Village Court shall be paid to the decree-holder or his agent specially authorized in writing, in the presence of the Village Munsiff whose duty it is to execute the decree; but if the decree is otherwise adjusted to the satisfaction of the decree-holder, the nature of such adjustment shall be recorded in writing, and signed by him or his agent in the presence of, and attested by, such Village Munsiff.

Payment of money under a decree or other adjustment to be made or recorded in the presence of the Village Munsiff.

Such payment or adjustment shall be endorsed by the Village Munsiff on the decree, and recorded in the register of suits mentioned in section 7.

No payment under a decree, and no adjustment of a decree in whole or in part, shall be recognised, unless it has been made or recorded in the manner prescribed by this section or in the Court of the Munsiff.

[49] *50.* [Subject to the provisions of sections 64 and 65,] *Except where the decree is executed by a Munsiff*, no judgment-debtor shall be arrested and no immovable property attached in execution of a decree of a Village Court.

Judgment-debtor not to be arrested nor immovable property attached.

50 *51.* On the application of the decree-holder, the Village Court shall attach any movable property within its jurisdiction belonging to the judgment-debtor pointed out by the decree-holder to the value of the sum payable under the decree: provided that the following properties shall not be liable to such attachment, *viz.*,

Attachment of movable property.

(*a*) the necessary wearing apparel, *cooking vessels*, beds, and bedding of the judgment-debtor, his wife and children, *and such personal ornaments as, in accordance with religious usage, cannot be parted with by any behalf, woman*;

(*b*) tools of artizans and, where the judgment-debtor is an agriculturist, his implements of husbandry and such cattle and seed-grain as may, in the opinion of the Court, be necessary to enable him to earn his livelihood as such;

(*c*) books of account;

(*d*) stipends and gratuities [payable to Military and Civil] *allowed to* pensioners of *the* Government *or payable out of any service family pension fund notified in the Official Gazette by Government in this behalf*, and political pensions;

(*e*) the salary due to a public officer or to any servant of a Railway Company or local authority;

(*f*) the pay and allowances of persons to whom the Native Articles of War apply *and of those belonging to the Mysore Military Forces as defined in the Code of Civil Procedure, 1911*;

(*g*) the wages of labourers and domestic servants *whether payable in money or in kind.*

(*h*) *The arms, horse, clothes, equipments, regimental accoutrements and necessaries of the members of the Mysore Military Forces*;

(*i*) *Where the decree relates to a debt due or contracted by an officer who has insured his life under the rules in force relating to the Mysore State Life Insurance, any bonus payable or paid thereunder to such officer or in the event of his death to his nominee or other person or persons entitled to such bonus under the said rules*;

(*j*) *Any amount payable by the Military Department to the members of the Mysore Military Forces out of a retiring fund.*

Explanation.—The particulars mentioned in clauses (d), (e), (f), (g), (h) and (j) are exempt from attachment or sale whether before or after they are actually payable.

Attachment when property is in possession of the judgment-debtor.

[51] *52.* If the property is in the possession of the judgment-debtor, it shall be attached by actual seizure and the Village Munsiff shall provide for its safe custody. It may be left in the custody of the judgment-debtor upon sufficient security being given in writing for its production when required. On default, the decree may be executed against the surety to the value of the property not produced.

Attachment when such property is not in possession of the judgment-debtor.

[52] *53.* If the property is not in the possession of the judgment-debtor, the attachment shall be made by a written order prohibiting the person in possession of the property from giving it over to the judgment-debtor.

Debts how attached.

[53] *54.* Debts and moneys due to the judgment-debtor shall be attached by a written order prohibiting the judgment-debtor from recovering the debt or receiving the sum of money and the debtor from making payment thereof, until the further order of the Village Court. Nothing in this section shall be held to authorize a Village Court to attach or sell a debt charged on immovable property.

Private alienation of property after attachment to be void.

[54] *55.* When an attachment has been made by actual seizure, or by a written order, any private alienation of the property attached, whether by sale, gift, pledge or otherwise, and any payment of the debt to the judgment-debtor, during the continuance of the attachment, shall be void as against all claims enforceable under the attachment.

Investigation of claims to attached property.

[55] *56.* If any claim is preferred to property attached in execution of a decree, the Village Court shall investigate the claim, and if it appears that the judgment-debtor has no saleable interest therein, such property shall be released from attachment.

Sale of attached property.

[56] *57.* As soon as possible after attachment, the Village Court shall fix a day not less than fifteen days from the date of attachment for the sale of the property attached, and shall cause a written proclamation of the intended sale to be fixed outside the Court, and such sale shall be further proclaimed by beat of drum previous thereto.

Proviso.

Provided that (1) with the consent in writing of the judgment-debtor, or (2) when the property seized is subject to speedy and natural decay, or (3) when the expense of keeping it in custody may exceed its value, the Court may, after giving due notice by beat of drum, sell the attached property at any time within fifteen days from the date of attachment. In such case, the Court shall hold the sale proceeds subject to the provisions herein after made for payment of moneys attached in execution of decrees.

Procedure in sale.

[57] *58.* On the day fixed for the sale, the property shall be put up for sale by public auction in the presence of the Village Munsiff and sold to the highest bidder. The price shall be paid without delay and in default the property shall again be put to sale.

On payment of the purchase money, the Court shall grant a receipt for the same, and the sale shall become absolute.

Any loss on resale shall, at the instance of either the [judgment-creditor] *decree-holder* or judgment-debtor, be recoverable from the defaulter as if a decree had been passed against him for the same.

Powers to adjourn sale.

[58] *59.* Any sale advertised under this Regulation may, at the discretion of the Court, be adjourned to a specified day, public notice thereof being given in the manner prescribed by section [56] *57.*

Village Munsiff and other officers not to bid for or buy property sold.

[59] *60.* No Village Munsiff or other officer having any duty to perform in connection with any sale under this Regulation shall, either directly or indirectly, bid for or acquire any property sold at such sale.

[60.] *61.* Every sale of property under this Regulation shall be stopped if, before the lot is knocked down, the amount due under the decree and the cost attending the sale are tendered to the Village Munsiff.

Stoppage of sale on tender of debt and costs.

[61.] *62.* Out of the moneys realized in execution, the cost of execution shall first be defrayed and then the amount due to the decree-holder. Any surplus which may remain shall be paid to the judgment-debtor.

Division of proceeds of sale.

[62.] *63.* When the property sold is one of which actual seizure has been made, the property shall be delivered to the purchaser.

Property actually seized to be delivered to purchaser.

[63.] *64.* When the property sold is in the possession of any person other than the judgment-debtor, or is a debt due by any person to the judgment-debtor, delivery thereof to the purchaser shall be made by a written notice to such person, prohibiting him from delivering possession of the property or paying the debt to any person except the purchaser, and whatever right the judgment-debtor had in such property or debt at the time of attachment shall vest in the purchaser.

Delivery of property to purchaser in other cases.

[64.] *65.* [Any decree passed by a Village Court may, on the application of the decree-holder, be transferred for execution] *On the application of the decree-holder, a Village Court which passed a decree may, if the decree cannot be fully executed by itself, transfer it for execution* to the Munsiff who may execute the same as if it were a decree passed by himself, or may transfer for execution to the Court of any other village in which the defendant is represented to have movable property. Such Court shall proceed as if the decree was passed by itself.

Transfer of decree for execution to Munsiff.

[65.] *66.* It shall be competent to a Munsiff to withdraw for just and sufficient cause the execution of any decree from any Village Court and to execute it himself, as if it were a decree passed by himself.

Munsiff may withdraw execution of any decree.

CHAPTER VII.

Miscellaneous.

[66.] *67.* If a plaintiff or a defendant dies before decree is passed in the suit, the name of his legal representative may be entered in his place on the record on the application of the opposite party or of such legal representative, but [no decree shall be passed against] the legal representative of a deceased defendant *shall not be answerable for any decree that may be passed* beyond the value of the assets derived from him and not duly accounted for.

If on death of party to suit application is made, legal representative of deceased may be entered on record.

[67.] *68.* If no such application is made within sixty days from the date of the death of the plaintiff or defendant, the suit shall be dismissed, and no fresh suit shall be allowed to be brought on the same cause of action.

If no application made, suit to be dismissed.

[68.] *69.* If there be more plaintiffs or defendants than one, and any of them dies and his representative is not joined as aforesaid, the suit shall proceed at the instance of the surviving plaintiff or plaintiffs or against the surviving defendant or defendants.

If more than one plaintiff or defendant, suit to proceed at instance of or against survivor.

[69.] *70.* If a decree-holder dies before the decree has been fully executed, his legal representative may apply to the Village Court to substitute his name as the decree-holder in the place of the deceased, and if the Court is satisfied, after giving notice to the judgment-debtor, that the applicant is the legal representative of the deceased, it shall substitute his name on the record as the decree-holder.

If decree-holder dies, his legal representative may be substituted.

[70.] *71.* If a judgment-debtor dies before the decree has been fully executed, it may be executed on the application of the decree-holder against the legal representative of the judgment-debtor to the extent of the assets derived from him and not duly accounted for.

If judgment-debtor dies, decree may be executed against his legal representative.

[71.] *72.* The Munsiff may, on a petition being presented within sixty days from the date of any decree or order of a village Court by any party deeming himself aggrieved by such decree or order, set aside such decree or order, on the ground—

Revision by Munsiffs of proceedings of Village Courts.

of corruption, gross partiality, or misconduct of the Village Court; or

of its having exercised a jurisdiction not vested in it by law, or otherwise acted illegally or with material irregularity; or

that the decree or order is clearly unjust or contrary to law;

and may pass such other decree or order as he thinks fit;

provided that no decree or order of a Village Court shall be set aside withot notice to the opposite party.

Pending disposal of any such petition, the Munsiff may stay execution of *the* decree or order.

A petition under this section may be entertained after sixty days by the Munsiff if he is satisfied with the cause shown for the delay.

Except as provided in this section, every decree and order of a Village Court shall be final.

[72.] *73.* Whenever under section [71] *72*, the Munsiff sets aside a decree or order, he may report the case to the District Judge. and shall report every case in which he sets aside a decree or order on the ground of corruption, gross partiality or misconduct.

Munsiff may, and in certain cases shall, report to District Judge.

[73.] *74.* The Chief Court may, from time to time, prescribe forms for use in Village Courts and the returns which they shall be bound to submit. The District Judge or *the Deputy Commissioner or the* Munsiff may at any time call for and inspect the registers and records of Village Courts.

Power of Chief Court to prescribe forms and of District Judge, Deputy Commissioner and Munsiff to inspect records.

75. *Notwithstanding anything contained in the Mysore Court Fees Regulation, 1900, no plaint, petition or Vakalatnama presented to a Village Court shall be chargeable with any fee under the said Regulation.*

Exemption of plaints, etc. from payment of Court Fees.

A Bill for the establishment of Village Courts in Mysore.

(*As adopted by the Mysore Legislative Council.*)

Preamble.

Whereas it is expedient to provide for the establishment of Village Courts in Mysore; His Highness the Maharaja is pleased to enact as follows:—

CHAPTER I.

Preliminary.

Title, commencement and local extent.

1. (1) This Regulation may be called "The Mysore Village Courts Regulation ."

(2) It shall come into force on the first day of "

(3) It shall extend to such village or villages in Mysore as may, from time to time, be notified by Government in the official Gazette.

Interpretation-clause.

2. In this Regulation, unless there is something repugnant in the subject or context,—

"Village." "Village" means a local area recognized by Government from time to time as a village for purposes of collecting the land revenue and includes any area for which a Village Court may be established under this Regulation.

"District Judge" and "Munsiff." "District Judge" or "Munsiff" means the District Judge or Munsiff appointed under the Mysore Civil Courts Regulation, I of 1883, within the local limits of whose jurisdiction the Village Court is situate.

"Deputy Commissioner." "Deputy Commissioner" shall mean the Deputy Commissioner of the District in which the Village Court is situate.

CHAPTER II.

Establishment and constitution of Village Courts.

Establishment of Village Courts.

3. The Government may, from time to time, by notification published in the official Gazette,—

(1) establish a Village Court for any village or specified area;

(2) group two or more villages and establish a Village Court for them;

(3) constitute divisions in any village and establish a separate Village Court for each of such divisions.

A Village Court established under this Regulation shall be held before a Village Munsiff appointed, or a Bench of more than one Judge constituted, as hereinafter provided.

Appointment of Village Munsiffs.

4. Village Munsiffs shall be appointed by the Deputy Commissioner of the District subject to such rules as the Government may, from time to time, prescribe; provided that no person not residing within the village shall be eligible for that office.

Suspension or removal of Village Munsiff.

5. The Deputy Commissioner of the District may suspend or remove a Village Munsiff for incapacity, neglect of duty, misconduct, or other just and sufficient cause, and shall do so, on a requisition made by the District Judge for like cause appearing in the judicial proceedings of a Village Munsiff.

From every order suspending or removing a Village Munsiff, an appeal may be preferred within three months to the Revenue Commissioner if the order was passed by the Deputy Commissioner without a requisition from the District Judge, or to the Chief Court, if passed upon such requisition. The decision of the Revenue Commissioner or the Chief Court, as the case may be, on all such appeals shall be final.

Appeals from the above orders to whom lie.

6. (1) For every village in respect of which a Village Court is constituted, and subject to any rules which the Government may make on this behalf, the Deputy Commissioner shall prepare and maintain a list of persons residing in the village and qualified to sit as members of a Bench for the trial of suits brought under this Regulation. Such list shall also be hung up in the court-house of the Village Munsiff.

Provisions concerning Benches.

List of persons qualified to serve as members of a Bench.

(2) In any suit which may be instituted before a Village Court under this Regulation, the plaintiff in his plaint or the defendant in his answer may claim that the suit shall, instead of being tried by the Village Munsiff, be tried by a Bench of three Judges, and nominate as a member of such Bench any person named in the list mentioned in clause (1).

Either party to a suit may claim a trial by Bench.

(3) When the plaintiff has nominated such a person in his plaint, the defendant shall, by the summons, be requested to nominate one also. When the defendant has demanded a Bench and nominated such a person, the plaintiff shall be required to nominate one also. When any person nominated to serve on a Bench declines or is unable to act, the party who nominated him shall be required to make a fresh nomination.

If a requisition under this clause has not been complied with within two clear days after it is made, the Village Munsiff shall himself select from the list a person to serve on the Bench on behalf of the party so making default.

Provided that the person nominated under this section shall not be the servant, dependant, relative or tenant of the party on whose behalf he is nominated, and shall not be personally interested in the result of the suit.

(4) The Village Munsiff shall summon the two persons nominated or selected as aforesaid to sit together with himself for the trial of the suit.

Member of Bench to be summoned by Village Munsiff.

(5) The Village Munsiff shall be the President of such Bench and shall regulate the procedure and issue all summonses, notices and the like in his own name, but the decree shall run in the name of all the three members of the Bench. If the members of the Bench cannot agree, the opinion of the majority shall prevail.

Procedure.

(6) No person summoned under this section to serve on a Bench shall be bound to sit for more than three days in a month; provided that every such person shall be bound to attend the trial of any case which has been commenced before him until its completion.

Liability to serve on Bench.

(7) Whoever, being duly summoned under this section to serve on a Bench, declines or omits to do so, without reasonable excuse, shall, on conviction before a Magistrate, be liable to a fine not exceeding Rs. 20.

Penalty for refusing or omitting to serve.

7. The Village Munsiff shall keep a register of suits filed in the Village Court and shall write the proceedings of the Court, and may, if necessary, employ any person in the village to assist him in keeping the register and in writing the proceedings.

Register of suits filed and record of proceedings held before Village Courts.

8. Every Village Court shall use a seal with the name of the Court inscribed in Kannada characters and shall use it for stamping summonses, decrees and copies of documents issued by it.

Seal.

9. It shall be the duty of the village servant usually employed in carrying messages to serve all summonses, notices and orders issued under this Regulation and to act under the orders of the Village Munsiff in seizing, delivering and selling movable properties attached under this Regulation.

Service of summonses, etc.

10. The Deputy Commissioner of the District may, with the previous sanction of Government, appoint any other person to perform the duties prescribed by sections 7 and 9, respectively.

Power of Deputy Commissioner to appoint persons to perform duties mentioned in sections 7 and 9.

CHAPTER III.

Jurisdiction, Res Judicata and Limitation.

11. The following are the suits which shall be cognizable by Village Courts, namely:—

Cognizance of suits by Village Courts.

Claim based on contract for money due, or claims for movable property, or for the value of such property, when the debt or demand does not exceed in amount or value the sum of rupees twenty, whether on balance of account or otherwise.

Proviso.

Provided that no action shall be brought in any such Court—

(1) on a balance of partnership account unless the balance shall have been struck by the parties or their agents;
(2) for a share or part of a share under an intestacy, or for a legacy or part of a legacy under a will;
(3) for the rent for land unless such rent is due upon a written contract signed by the defendant;
(4) by or against public officers in their official capacity;
(5) by and against minors or persons of unsound mind.

12. With the written consent of both parties executed before the Court, a Village Court may hear and determine suits of the nature discribed in section 11, the amount or value of which shall not exceed Rs. 200.

Jurisdiction with consent.

13. No suit cognizable by the Village Court under this Regulation shall be entertained, heard or determined in any other Court having jurisdiction within the local limits of the jurisdiction of such Village Court.

Exclusive jurisdiction of Village Courts in cases cognizable by such Courts.

Provided that all such cases pending in any Court at the time this Regulation comes into force shall be heard and determined by such Court; and decrees passed in suits, which shall not have been satisfied prior to such time, shall be executed by such Courts.

Proviso.

14. Subject to the provisions contained in section 15, every suit brought under this Regulation shall be instituted in the Village Court within the local limits of whose jurisdiction all the defendants at the time of the commencement of the suit reside or carry on business or personally work for gain.

Court in which suits to be instituted.

15. No Village Munsiff shall try any suit to which he is a party, or in which he is personally interested, or shall adjudicate upon any proceeding connected with or arising out of such suit.

Suits in which the Village Munsiff is personally interested.

16. No Village Court shall try any suit brought on a cause of action which has been heard and determined by a Court of competent jurisdiction, in a former suit, between the same parties, or those under whom they claim.

Res judicata.

17. Every suit instituted in a Village Court shall include the whole of the claim which the plaintiff is entitled to make in respect of the cause of action, but he may relinquish any portion of his claim in order to bring the suit within the jurisdiction of such Court.

Suit to include whole claim.

If a plaintiff omits to sue in respect of, or intentionally relinquishes, any portion of his claim, he shall be precluded from bringing a fresh suit for, or in respect of, the portion so omitted or relinquished.

Relinquishment of part of claim.

18. If in the decision of a suit cognisable by a Village Court under sections 11 and 14 it becomes necessary to decide incidentally any matter in dispute between the parties to the suit concerning title to immovable property, or the legal character of either of them, or of those under whom they claim, or the existence of any contract or obligation, which, if it had been the immediate subject matter of the suit, would not be cognizable under this Regulation by a Village Court, it shall be competent to the Village Court to decide such question of title, legal character, contract or obligation as far as may be necessary for the determination of such suit, but such decision shall not be evidence of such title, legal character, contract or obligation in any other action, though between the same parties or their representatives.

Incidental determination of matters not cognizable by Village Courts.

19. The provisions of the Mysore Limitation Regulation shall apply to suits and applications under this Regulation.

Limitation

Provided that no suit or application shall be entertained by a Village Court after the expiration of three years from the time when the right to sue or make the application first accrued.

Proviso.

20. The Munsiff may, on the application of any of the parties, withdraw, for just and sufficient cause, any suit from a Village Court and try the suit himself, as if it had been instituted in his Court, or transfer it for trial to any other Village Court within the local limits of his jurisdiction.

Transfer of suits.

Provided that any party applying to have a suit withdrawn from a Village Court and tried by the Munsiff shall, before any such order of transfer is made, pay the amount of the fees payable under the Mysore Court Fees Regulation, 1900, in respect thereof.

CHAPTER IV.

Of the Institution and Frame of Suits, Recognized Agents, the Issue and Service of Summons on Parties, Adjournment and Consequences of Non-appearance.

21. Every suit under this Regulation shall be instituted by presenting a plaint to the Village Munsiff together with as many copies thereof as there are defendants. One copy shall be delivered or affixed as hereinafter provided together with the copy of the summons.

Suit to be commenced by plaint.

22. The plaint shall be written in Kannada and signed by the plaintiff or in his absence by an agent duly authorised by him, and it shall contain the following particulars,—

Particulars to be contained in plaint.

(*a*) the name, description and residence of the plaintiff and defendant:

(*b*) a concise statement of the cause of action and when it arose:

(*c*) the relief prayed for and the total amount or value of the claim.

23. No agent except a relative or servant empowered by a written instrument shall be allowed to appear on behalf of any party to a suit in a Village Court; provided that in all cases, a Village Court shall be competent to order the personal appearance of any party.

Appearance in person or by agent.

24. When the plaint has been duly presented, the Village Munsiff shall cause it to be registered and shall, by a summons in writing, require the defendant to appear and answer the claim on a specified day.

Registry of plaint and issue of summons.

The summons shall be accompanied by a copy of the plaint and shall require the defendant to bring his witnesses, if any, on the date fixed for hearing, the plaintiff being likewise directed to appear on that date with his witnesses.

The summons shall be served on the defendant personally and a copy thereof delivered to him.

Mode of service when defendant evades service.

25. If the Village Munsiff is satisfied that the defendant is evading service of the summons, the Village Munsiff may order that it be served upon, and a copy thereof delivered to, an adult male member of the family of the defendant residing with him, or that a copy thereof be affixed upon some conspicuous part of the house in which he generally resides and another copy to the court-house of the Village Munsiff.

Mode of service when defendant is beyond local jurisdiction of Court.

26. Whenever it may be necessary to serve the summons upon a defendant beyond the local jurisdiction of the Village Court, it shall be forwarded to the Munsiff, who shall cause it to be served as if it had been a summons issued by himself and shall then return it to the Village Court, together with a report of such service. Such report shall be *prima facie* evidence of the facts stated therein.

Procedure if defendant does not appear.

27. If a defendant does not appear in person or by agent on the day fixed, and it is proved that the summons was duly served at least two clear days before the date of hearing, the Village Court may proceed *ex-parte*.

If it is not proved that the summons was duly served, the Village Munsiff shall issue a fresh summons.

Process to be served at expense of party issuing.

28. Every summons served under this Regulation otherwise than by the village servant shall be served at the expense of the party on whose behalf it is issued and the amount of fee leviable for such service shall be fixed by Government from time to time and shall be levied by the Village Munsiff in such manner and subject to such rules as may be prescribed in that behalf by Government.

Procedure where plaintiff does not appear and defendant does not admit claim or where summons is not served through plaintiff's default.

29. If, on the day fixed for the defendant to appear,—

(1) neither party appears, or

(2) the plaintiff does not appear and the defendant appears and does not admit the claim, or

(3) the summons has not been served owing to the plaintiff's default and the defendant does not appear,

the suit shall be dismissed unless the Village Court, for good and sufficient cause, otherwise directs.

Procedure where plaintiff does not appear and defendant admits claim.

30. If the plaintiff does not appear but the defendant appears and admits the claim wholly or in part, the Village Court shall pass judgment against the defendant in accordance with such admission, and where part only of the claim is admitted shall dismiss the suit so far as it relates to the remainder.

Setting aside order under section 29 on cause shown.

31. (1) Whenever a suit is dismissed under clause (1) or clause (3) of section 29, the plaintiff may bring a fresh suit, and if within the time allowed by the law of limitation the plaintiff satisfies the Village Court that he was prevented by any sufficient cause from appearing, the Court shall set aside the dismissal and shall appoint a day for proceeding with the suit.

Setting aside order under section 29(2) and 30.

(2) When a suit is dismissed under sub-section (2) of section 29 or partially dismissed under section 30, the plaintiff shall be precluded from bringing a fresh suit in respect of the same cause of action, but he may within the time allowed by the law of limitation apply for an order to set aside the dismissal and if he satisfies the Court that he was prevented from any sufficient cause from appearing, the Court shall make an order setting aside the dismissal and shall appoint a day for proceeding with the suit.

Setting aside *ex-parte* decree against defendant.

32. Any defendant against whom a decree has been passed *ex-parte* may, within the time allowed by the law of limitation, apply to the Village Court to set it aside; and if satisfied that the summons or notice was not duly served or that

the defendant was prevented by any sufficient cause from appearing, the Court sha l set aside the decree and shall appoint a day for proceeding with the suit.

No decree to be set aside without notice to opposite party

33. No dismissal or decree shall be set aside on any application under section 31 or section 32 unless notice has been served on the opposite party.

CHAPTER V.

Of the Hearing, Withdrawal or Compromise of Suits, and of the Summoning and Examination of Witnesses.

Procedure on appearance of both parties.

34. When the defendant appears, the Court shall ascertain from him whether he admits the claim made in the plaint. If he admits the claim, or if the suit is compromised, such admission or compromise shall be recorded in writing and signed by the parties, and the Court shall pass a decree in accordance therewith. If the defendant does not admit the claim, he shall be required to state his objections either orally or in writing, and the Court may, if it thinks fit, adjourn the case to enable him to file a written statement.

Withdrawal of suit.

35. If the plantiff wishes to withdraw the suit, he shall signify the same in writing to the Court which shall strike the suit off the file and no fresh suit shall be brought on the same cause of action.

When suit may be settled by oath.

36. If either party is willing to let the suit be settled by the oath of the other, and such other party assents and takes the oath, the Court shall give judgment according to such oath.

Set-off.

37. The defendant may set off any amount legally due to him by the plaintiff, for which he could bring a suit in a Village Court. If such set-off is established, the decree shall be for any sum which finally appears to be due to either party.

Witnesses not present to be summoned.

38. When the defendant's statement has been made, the Court shall proceed to examine the truth of the claim, and shall summon the witnesses cited by either party who are not present.

Summons to witnesses how served.

39. Any witness residing within the jurisdiction of the Village Court may be summoned verbally or in writing. Any witness residing within 5 miles beyond the Court's jurisdiction may be summoned in writing, and such summons shall be served through the Village Munsiff within whose jurisdiction he resides, or if for such place there is no Village Court, through the patel of the village in which the witness resides. If any witness resides more than 5 miles beyond the jurisdiction, the Court may call on the parties to frame written interrogatories and shall forward such interrogatories with a letter to the Village Munsiff or if there is no Village Court for such place, to the Amildar or Deputy Amildar within whose jurisdiction the witness resides, and such Village Munsiff or Amildar or Deputy Amildar shall forthwith summon and examine the witness upon the interrogatories, and shall return his answers to the Court in which the suit is pending.

Interrogatories.

Summons to appear and give evidence or produce document.

40. A summons may direct the party summoned either to appear and give evidence or to produce or cause the production of a document.

Liability of witnesses to attend and give evidence or produce document.

41. Witnesses summoned by a Village Court to give evidence or to produce a document shall, except for reasonable cause, be bound so to attend and give evidence and produce or cause the production of the document summoned.

Exemption of certain persons from personal appearance.

42. Women who, according to the customs and manners of the country, ought not to be compelled to appear in public, persons exempted from personal appearance in Court, and any person who, by reason of sickness or bodily infirmity,

cannot attend without serious inconvenience, shall not be summoned; but when the evidence of any such person is necessary, the Village Court shall examine such person at his or her residence.

Examination of witnesses.

43. Witnesses shall be examined in open Court on oath or affirmation, but it shall not be necessary for a Village Court to take down depositions of witnesses in writing.

Adjournment in view to amicable settlement or for other cause.

44. If it appears likely that the parties will settle the matter amicably, or for any other sufficient cause, the Village Court may adjourn the hearing to a day to be fixed in the presence of the parties or in cases in which the defendant does not appear, in the presence of the plaintiff. If, on such day, the parties or any of them fail to appear, the Village Court may proceed to dispose of the suit in one of the modes prescribed in that behalf by sections 29 and 30, or make such other order as it thinks fit.

CHAPTER VI.

Of the Decree and its Execution.

On conclusion of hearing, Court to pass decree.

45. When the parties or their agents have been heard, and the evidence on both sides considered, the Village Court shall pass such decree as may seem just, equitable and according to good conscience.

Contents of decree.

46. The decree shall contain the number of the suit, the names of the parties, the particulars of the claim, the names of the witnesses examined, the titles of the exhibits read, the decision thereon, and the reasons for such decision. It shall specify the sum of money adjudged, the movable property to be delivered, the sum to be paid in default of delivery, and the amount of costs to be paid and by what parties and in what proportions such costs shall be paid.

The decree shall be dated on the day on which it is passed, and signed by the Village Munsiff. When the suit has been heard by a Bench, the decree shall be signed by the members of such Bench concurring therewith. Each party shall be entitled to receive a copy of the decree on application.

Decree may award interest or order payment by instalments.

47. In suits for money, the Village Court may decree interest on the sum decreed not exceeding 12 per cent per annum from date of suit till date of payment.

When a Village Court decrees the payment of a sum of money, it may direct that it be paid by instalments, with or without interest at the above rate.

Court by which decree may be executed.

48. The decree shall be executed by the Village Court which passed it or by a Village Court or Munsiff to whom it is sent for execution under the provisions hereinafter contained.

Decree for specific movable how executed.

49. If the decree is for any specific movable, it may be enforced by the seizure of the property, and its delivery to the decree-holder. If the seizure of the property is not practicable, the decree shall be executed by enforcing payment of the sum decreed as an alternative.

Payment of money under a decree or other adjustment to be made or recorded in the presence or the Village Munsiff.

50. All money payable under a decree passed by a Village Court shall be paid to the decree-holder or his agent specially authorized in writing, in the presence of the Village Munsiff whose duty it is to execute the decree; but if the decree is otherwise adjusted to the satisfaction of the decree-holder, the nature of such adjustment shall be recorded in writing, and signed by him or his agent in the presence of, and attested by, such Village Munsiff.

Such payment or adjustment shall be endorsed by the Village Munsiff on the decree, and recorded in the register of suits mentioned in section 7.

No payment under a decree, and no adjustment of a decree in whole or in part, shall be recognised, unless it has been made or recorded in the manner prescribed by this section or in the Court of the Munsiff.

Judgment-debtor not to be arrested nor immovable property attached.

51. Except where the decree is executed by a Munsiff, no judgment-debtor shall be arrested and no immovable property attached in execution of a decree of a Village Court.

Attachment of movable property.

52. On the application of the decree-holder, the Village Court shall attach any movable property within its jurisdiction belonging to the judgment-debtor pointed out by the decree-holder to the value of the sum payable under the decree: prov ded that the following properties shall not be liable to such attachment, *viz.*,

(*a*) the necessary wearing apparel, cooking vessels, beds, and bedding of the judgment-debtor, his wife and children, and such personal ornaments as, in accordance with religious usage, cannot be parted with by any woman;

(*b*) tools of artizans and, where the judgment-debtor is an agriculturist, his implements of husbandry and such cattle and seed-grain as may, in the opinion of the Court, be necessary to enable him to earn his livelihood as such;

(*c*) books of account;

(*d*) stipends and gratuities allowed to pensioners of the Government or payable out of any service family pension fund notified in the official Gazette by Government in this behalf, and political pensions;

(*e*) the salary due to a public officer or to any servant of a Railway Company or local authority;

(*f*) the pay and allowances of persons to whom the Indian Army Act, 1911, applies and of those belonging to the Mysore Military Forces;

(*g*) the wages of labourers and domestic servants whether payable in money or in kind;

(*h*) the arms, horse, clothes, equipments, regimental accoutrements and necessaries of the members of the Mysore Military Forces;

(*i*) where the decree relates to a debt due or contracted by an officer who has insured his life under the rules in force relating to the Mysore State Life Insurance, any bonus payable or paid thereunder to such officer or in the event of his death to his nominee or other person or persons entitled to such bonus under the said rules;

(*j*) any amount payable by the Military Department to the members of the Mysore Military Forces out of a retiring fund.

Explanation I.—The expression Mysore Military Forces occurring in this section shall have the meaning given to it in the Code of Civil Procedure, 1911.

Explanation II.—The particulars mentioned in clauses (*d*), (*e*), (*f*), (*g*) and (*j*) are exempt from attachment or sale whether before or after they are actually payable.

Attachment when property is in possession of the judgment-debtor.

53. If the property is in the possession of the judgment-debtor, it shall be attached by actual seizure and the Village Munsiff shall provide for its safe custody. It may be left in the custody of the judgment-debtor upon sufficient security being given in writing for its production when required. On default, the decree may be executed against the surety to the value of the property not produced.

Attachment when such property is not in possession of the judgment-debtor.

54. If the property is not in the possession of the judgment-debtor, the attachment shall be made by a written order prohibiting the person in possession of the property from giving it over to the judgment-debtor.

Debts how attached.

55. Debts and moneys due to the judgment-debtor shall be attached by a written order prohibiting the judgment-debtor from recovering the debt or receiving the sum of money and

the debtor from making payment thereof, until the further order of the Village Court. Nothing in this section shall be held to authorize a Village Court to attach or sell a debt charged on immovable property.

Private alienation of property after attachment to be void.

56. When an attachment has been made by actual seizure, or by a written order, any private alienation of the property attached, whether by sale, gift, pledge or otherwise, and any payment of the debt to the judgment-debtor, during the continuance of the attachment, shall be void as against all claims enforceable under the attachment.

Investigation of claims to attached property.

57. If any claim is preferred to property attached in execution of a decree, the Village Court shall investigate the claim, and if it appears that the judgment-debtor has no saleable interest therein, such property shall be released from attachment.

Sale of attached property.

58. As soon as possible after attachment, the Village Court shall fix a day not less than fifteen days from the date of attachment for the sale of the property attached, and shall cause a written proclamation of the intended sale to be fixed outside the Court, and such sale shall be further proclaimed by beat of drum previous thereto.

Proviso.

Provided that (1) with the consent in writing of the judgment-debtor, or (2) when the property seized is subject to speedy and natural decay, or (3) when the expense of keeping it in custody may exceed its value, the Court may, after giving due notice by beat of drum, sell the attached property at any time within fifteen days from the date of attachment. In such case, the Court shall hold the sale proceeds subject to the provisions hereinafter made for payment of moneys attached in execution of decrees.

Procedure in sale.

59. On the day fixed for the sale, the property shall be put up for sale by public auction in the presence of the Village Munsiff and sold to the highest bidder. The price shall be paid without delay and in default the property shall again be put to sale.

On payment of the purchase money, the Court shall grant a receipt for the same, and the sale shall become absolute.

Any loss on resale shall, at the instance of either the decree-holder or judgment-debtor, be recoverable from the defaulter as if a decree had been passed against him for the same.

Powers to adjourn sale.

60. Any sale advertised under this Regulation may, at the discretion of the Court, be adjourned to a specified day, public notice thereof being given in the manner prescribed by section 58.

Village Munsiff and other officers not to bid for or buy property sold.

61. No Village Munsiff or other officer having any duty to perform in connection with any sale under this Regulation shall, either directly or indirectly, bid for or acquire any property sold at such sale.

Stoppage of sale on tender of debt and costs.

62. Every sale of property under this Regulation shall be stopped if, before the lot is knocked down, the amount due under the decree and the cost attending the sale are tendered to the Village Munsiff.

Division of proceeds of sale.

63. Out of the moneys realized in execution, the cost of execution shall first be defrayed and then the amount due to the decree-holder. Any surplus which may remain shall be paid to the judgment-debtor.

Property actually seized to be delivered to purchaser.

64. When the property sold is one of which actual seizure has been made, the property shall be delivered to the purchaser.

Delivery of property to purchaser in other cases.

65. When the property sold is in the possession of any person other than the judgment-debtor, or is a debt due by any person to the judgment-debtor, delivery thereof to the purchaser shall be made by a written notice to such person, prohibiting

him from delivering possession of the property or paying the debt to any person except the purchaser, and whatever right the judgment-debtor had in such property or debt at the time of attachment shall vest in the purchaser.

Transfer of decree for execution to Munsiff.

66. On the application of the decree-holder, a Village Court which passed a decree may, if the decree cannot be fully executed by itself, transfer it for execution to the Munsiff who may execute the same as if it were a decree passed by himself, or may transfer for execution to the Court of any other village in which the defendant is represented to have movable property. Such Court shall proceed as if the decree was passed by itself.

Munsiff may withdraw execution of any decree.

67. It shall be competent to the Munsiff to withdraw for just and sufficient cause the execution of any decree from any Village Court and to execute it himself, as if it were a decree passed by himself.

CHAPTER VII.

Miscellaneous.

If on death of party to suit application is made, legal representative of deceased may be entered on record.

68. If a plaintiff or a defendant dies before decree is passed in the suit, the name of his legal representative may be entered in his place on the record on the application of the opposite party or of such legal representative, but the legal representative of a deceased defendant shall not be answerable for any decree that may be passed beyond the value of the assets derived from him and not duly accounted for.

If no application made, suit to be dismissed.

69. If no such application is made within sixty days from the date of the death of the plaintiff or defendant, the suit shall be dismissed, and no fresh suit shall be allowed to be brought on the same cause of action.

If more than one plaintiff or defendant, suit to proceed at instance of or against survivor.

70. If there be more plaintiffs or defendants than one, and any of them dies and his representative is not joined as aforesaid, the suit shall proceed at the instance of the surviving plaintiff or plaintiffs or against the surviving defendant or defendants.

If decree-holder dies his legal representative may be substituted.

71. If a decree-holder dies before the decree has been fully executed, his legal representative may apply to the Village Court to substitute his name as the decree-holder in the place of the deceased, and if the Court is satisfied, after giving notice to the judgment-debtor, that the applicant is the legal representative of the deceased, it shall substitute his name on the record as the decree-holder.

If judgment-debtor dies, decree may be executed against his legal representative.

72. If a judgment-debtor dies before the decree has been fully executed, it may be executed on the application of the decree-holder against the legal representative of the judgment-debtor to the extent of the assets derived from him and not duly accounted for.

Revision by Munsiffs of proceedings of Village Courts.

73. The Munsiff may, on a petition being presented within sixty days from the date of any decree or order of a Village Court by any party deeming himself aggrieved by such decree or order, set aside such decree or order, on the ground—

of corruption, gross partiality, or misconduct of the Village Court; or

of its having exercised a jurisdiction not vested in it by law, or otherwise acted illegally or with material irregularity; or

that the decree or order is clearly unjust or contrary to law;

and may pass such other decree or order as he thinks fit;

provided that no decree or order of a Village Court shall be set aside without notice to the opposite party.

Pending disposal of any such petition, the Munsiff may stay execution of the decree or order.

A petition under this section may be entertained after sixty days by the Munsiff if he is satisfied with the cause shown for the delay.

Except as provided in this section, every decree and order of a Village Court shall be final.

Munsiff may, and in certain cases shall, report to District Judge.

74. Whenever under section 73 the Munsiff sets aside a decree or order, he may report the case to the District Judge, and shall report every case in which he sets aside a decree or order on the ground of corruption, gross partiality or misconduct.

Power of Chief Court to prescribe forms and of District Judge, Deputy Commissioner and Munsiff to inspect records.

75. The Chief Court may, from time to time, prescribe forms for use in Village Courts and the returns which they shall be bound to submit. The District Judge or the Deputy Commissioner or the Munsiff may at any time call for and inspect the registers and records of Village Courts.

Exemption of plaints, etc., from payment of Court Fees.

76. Notwithstanding anything contained in the Mysore Court Fees Regulation, 1900, no plaint, petition or vakalatnama presented to a Village Court shall be chargeable with any fee under the said Regulation.

GPB—50—21-5-13.

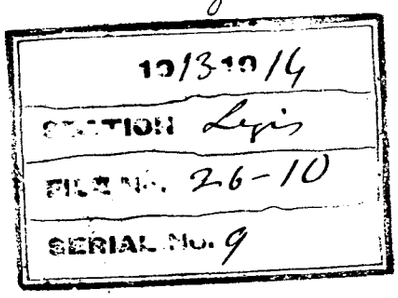
Pol No 1328 23.7.13.

No. 4321.

FROM

P. B. WARBURTON, ESQ., I. C. S.,
FIRST ASSISTANT TO THE RESIDENT IN MYSORE.

DIARY No. J. 283.



To

The Dewan of Mysore.

Dated Bangalore, 23rd July 1913

SIR,

I am directed to acknowledge the receipt of Mr. Srinivasiengar's letter No. 1040, dated the 13th June 1913, forwarding a draft Bill for the establishment of Village Courts in the Mysore State.

2. The Governor General in Council has been pleased to accord his consent to the draft Bill on the understanding that he retains over it the power and authority which -- vests in him by virtue of Article 19 of the Instrument of Transfer.

I have the honour to be,

Sir,

Your most obedient servant,

for First Assistant Resident.

R. O. 2.—R. P. B.—3-1918.—1,500.

No F 1235 Legis 26-10 & 21.10.13

Fair draft-

Proceedings of the Government of His Highness the Maharaja of Mysore.

Order No. F 1235/Legis 26-9-10

Dated 21st October 1913.

Ordered that the accompanying Regulation (Regulation for the establishment of Village Courts in Mysore) which received the assent of His Highness the Maharaja on the 11th October 1913, be published as Regulation VII of 1913 in the Mysore Gazette ~~publish-ed~~ for general information.

By order,

S Rajagopal

for Secretary to Government.

To

The Compiler, Mysore Gazette for publication in part III of the Gazette, in English and Kannada and to supply 200 spare copies in English and 200 in Kannada to this office and 100 in English and 100 in Kannada to the Curator Govt. Book Depot. Proofs should be sent to the judicial Branch of this office for approval before publication.

M.L.

REGULATION VII OF 1913.

A Regulation for the establishment of Village Courts in Mysore.

(Received the assent of His Highness the Maharaja on the 11th day of October 1913.)

Preamble.

Whereas it is expedient to provide for the establishment of Village Courts in Mysore; His Highness the Maharaja is pleased to enact as follows :—.

CHAPTER I.

Preliminary.

Title, commencement and local extent.

1. (1) This Regulation may be called "The Mysore Village Courts Regulation, 1913."

(2) It shall come into force on the first day of January 1914.

(3) It shall extend to such village or villages in Mysore as may, from time to time, be notified by Government in the official Gazette.

Interpretation clause.

2. In this Regulation, unless there is something repugnant in the subject or context,—

"Village."

"Village" means a local area recognized by Government from time to time as a village for purposes of collecting the land revenue and includes any area for which a Village Court may be established under this Regulation.

"District Judge" and "Munsiff."

"District Judge" or "Munsiff" means the District Judge or Munsiff appointed under the Mysore Civil Courts Regulation, I of 1883, within the local limits of whose jurisdiction the Village Court is situate.

"Deputy Commissioner."

"Deputy Commissioner" shall mean the Deputy Commissioner of the District in which the Village Court is situate.

CHAPTER II.

Establishment and constitution of Village Courts.

Establishment of Village Courts.

3. The Government may, from time to time, by notification published in the official Gazette,—

(1) establish a Village Court for any village or specified area;

(2) group two or more villages and establish a Village Court for them;

(3) constitute divisions in any village and establish a separate Village Court for each of such divisions.

A Village Court established under this Regulation shall be held before a Village Munsiff appointed, or a Bench of more than one Judge constituted, as hereinafter provided.

Appointment of Village Munsiffs.

4. Village Munsiffs shall be appointed by the Deputy Commissioner of the District subject to such rules as the Government may, from time to time, prescribe; provided that no person not residing within the village shall be eligible for that office.

Suspension or removal of Village Munsiff.

5. The Deputy Commissioner of the District may suspend or remove a Village Munsiff for incapacity, neglect of duty, misconduct, or other just and sufficient cause, and shall do so, on a requisition made by the District Judge for like cause appearing in the judicial proceedings of a Village Munsiff.

From every order suspending or removing a Village Munsiff, an appeal may be preferred within three months to the Revenue Commissioner if the order was passed by the Deputy Commissioner without a requisition from the District Judge, or to the Chief Court, if passed upon such requisition. The decision of the Revenue Commissioner or the Chief Court, as the case may be, on all such appeals shall be final.

Appeals from the above orders to whom lie.

6. (1) For every village in respect of which a Village Court is constituted, and subject to any rules which the Government may make on this behalf, the Deputy Commissioner shall prepare and maintain a list of persons residing in the village and qualified to sit as members of a Bench for the trial of suits brought under this Regulation. Such list shall also be hung up in the Court-house of the Village Munsiff.

Provisions concerning Benches.

List of persons qualified to serve as members of a Bench.

(2) In any suit which may be instituted before a Village Court under this Regulation, the plaintiff in his plaint or the defendant in his answer may claim that the suit shall, instead of being tried by the Village Munsiff, be tried by a Bench of three Judges, and nominate as a member of such Bench any person named in the list mentioned in clause (1).

Either party to a suit may claim a trial by Bench.

(3) When the plaintiff has nominated such a person in his plaint, the defendant shall, by the summons, be requested to nominate one also. When the defendant has demanded a Bench and nominated such a person, the plaintiff shall be required to nominate one also. When any person nominated to serve on a Bench declines or is unable to act, the party who nominated him shall be required to make a fresh nomination.

If a requisition under this clause has not been complied with within two clear days after it is made, the Village Munsiff shall himself select from the list a person to serve on the Bench on behalf of the party so making default.

Provided that the person nominated under this section shall not be the servant, dependant, relative or tenant of the party on whose behalf he is nominated, and shall not be personally interested in the result of the suit.

(4) The Village Munsiff shall summon the two persons nominated or selected as aforesaid to sit together with himself for the trial of the suit.

Member of Bench to be summoned by Village Munsiff.

(5) The Village Munsiff shall be the President of such Bench and shall regulate the procedure and issue all summonses, notices and the like in his own name, but the decree shall run in the name of all the three members of the Bench. If the members of the Bench cannot agree, the opinion of the majority shall prevail.

Procedure.

(6) No person summoned under this section to serve on a Bench shall be bound to sit for more than three days in a month; provided that every such person shall be bound to attend the trial of any case which has been commenced before him until its completion

Liability to serve on Bench.

(7) Whoever, being duly summoned under this section to serve on a Bench, declines or omits to do so, without reasonable excuse, shall, on conviction before a Magistrate, be liable to a fine not exceeding Rs. 20.

Penalty for refusing or omitting to serve.

7. The Village Munsiff shall keep a register of suits filed in the Village Court and shall write the proceedings of the Court, and may, if necessary, employ any person in the village to assist him in keeping the register and in writing the proceedings.

Register of suits filed, and record of proceedings held, before Village Courts.

8. Every Village Court shall use a seal with the name of the Court inscribed in Kannada characters and shall use it for stamping summonses, decrees and copies of documents issued by it.

Seal.

9. It shall be the duty of the village servant usually employed in carrying messages to serve all summonses, notices and orders issued under this Regulation and to act under the orders of the Village Munsiff in seizing, delivering and selling movable properties attached under this Regulation.

Service of summonses, etc.

10. The Deputy Commissioner of the District may, with the previous sanction of Government, appoint any other person to perform the duties prescribed by Sections 7 and 9, respectively.

Power of Deputy Commissioner to appoint persons to perform duties mentioned in Sections 7 and 9.

CHAPTER III.

Jurisdiction, Res Judicata and Limitation.

11. The following are the suits which shall be cognizable by Village Courts, namely:—

Cognizance of suits by Village Courts.

Claim based on contract for money due, or claims for movable property, or for the value of such property, when the debt or demand does not exceed in amount or value the sum of rupees twenty, whether on balance of account or otherwise.

Provided that no action shall be brought in any such Court—

Proviso.

(1) on a balance of partnership account unless the balance shall have been struck by the parties or their agents;

(2) for a share or part of a share under an intestacy, or for a legacy or part of a legacy under a will;

(3) for the rent for land unless such rent is due upon a written contract signed by the defendant;

(4) by or against public officers in their official capacity;

(5) by and against minors or persons of unsound mind.

12. With the written consent of both parties executed before the Court, a Village Court may hear and determine suits of the nature described in Section 11, the amount or value of which shall not exceed Rs. 200.

Jurisdiction with consent.

13. No suit cognizable by the Village Court under this Regulation shall be entertained, heard or determined in any other Court having jurisdiction within the local limits of the jurisdiction of such Village Court.

Exclusive jurisdiction of Village Courts in cases cognizable by such Courts.

Provided that all such cases pending in any Court at the time this Regulation comes into force shall be heard and determined by such Court; and decrees passed in suits, which shall not have been satisfied prior to such time, shall be executed by such Courts.

Proviso.

14. Subject to the provisions contained in Section 15, every suit brought under this Regulation shall be instituted in the Village Court within the local limits of whose jurisdiction all the defendants at the time of the commencement of the suit reside or carry on business or personally work for gain.

Court in which suits to be instituted.

15. No Village Munsiff shall try any suit to which he is a party, or in which he is personally interested, or shall adjudicate upon any proceeding connected with or arising out of such suit.

Suits in which the Village Munsiff is personally interested.

16. No Village Court shall try any suit brought on a cause of action which has been heard and determined by a Court of competent jurisdiction, in a former suit, between the same parties, or those under whom they claim.

Res judicata.

17. Every suit instituted in a Village Court shall include the whole of the claim which the plaintiff is entitled to make in respect of the cause of action, but he may relinquish any portion of his claim in order to bring the suit within the jurisdiction of such Court.

Suit to include whole claim.

If a plaintiff omits to sue in respect of, or intentionally relinquishes, any portion of his claim, he shall be precluded from bringing a fresh suit for, or in respect of, the portion so omitted or relinquished.

Relinquishment of part of claim.

18. If in the decision of a suit cognizable by a Village Court under sections 11 and 14 it becomes necessary to decide incidentally any matter in dispute between the parties to the suit concerning title to immovable property, or the legal character of either of them, or of those under whom they claim, or the existence of any contract or obligation, which, if it had been the immediate subject matter of the suit, would not be cognizable under this Regulation by a Village Court, it shall be competent to the Village Court to decide such question of title, legal character, contract or obligation as far as may be necessary for the determination of such suit, but such decision shall not be evidence of such title, legal character, contract or obligation in any other action, though between the same parties or their representatives.

Incidental determination of matters not cognizable by Village Courts.

19. The provisions of the Mysore Limitation Regulation shall apply to suits and applications under this Regulation.

Limitation.

Provided that no suit or application shall be entertained by a Village Court after the expiration of three years from the time when the right to sue or make the application first accrued.

Proviso.

20. The Munsiff may, on the application of any of the parties, withdraw, for just and sufficient cause, any suit from a Village Court and try the suit himself, as if it had been instituted in his Court, or transfer it for trial to any other Village Court within the local limits of his jurisdiction.

Transfer of suits.

Provided that any party applying to have a suit withdrawn from a Village Court and tried by the Munsiff shall, before any such order of transfer is made, pay the amount of the fees payable under the Mysore Court Fees Regulation, 1900, in respect thereof.

CHAPTER IV.

Of the Institution and Frame of Suits, Recognized Agents, the Issue and Service of Summons on Parties, Adjournment and Consequences of Non-appearance.

21. Every suit under this Regulation shall be instituted by presenting a plaint to the Village Munsiff together with as many copies thereof as there are defendants. One copy shall be delivered or affixed as hereinafter provided together with the copy of the summons.

Suit to be commenced by plaint.

22. The plaint shall be written in Kannada and signed by the plaintiff or in his absence by an agent duly authorised by him, and it shall contain the following particulars,—

Particulars to be contained in plaint.

(*a*) the name, description and residence of the plaintiff and defendant;

(*b*) a concise statement of the cause of action and when it arose;

(*c*) the relief prayed for and the total amount or value of the claim.

23. No agent except a relative or servant empowered by a written instrument shall be allowed to appear on behalf of any party to a suit in a Village Court; provided that in all cases, a Village Court shall be competent to order the personal appearance of any party.

Appearance in person or by agent.

24. When the plaint has been duly presented, the Village Munsiff shall cause it to be registered and shall, by a summons in writing, require the defendant to appear and answer the claim on a specified day.

Registry of plaint and issue of summons.

The summons shall be accompanied by a copy of the plaint and shall require the defendant to bring his witnesses, if any, on the date fixed for hearing, the plaintiff being likewise directed to appear on that date with his witnesses.

The summons shall be served on the defendant personally and a copy thereof delivered to him.

25. If the Village Munsiff is satisfied that the defendant is evading service of the summons, the Village Munsiff may order that it be served upon, and a copy thereof delivered to, an adult male member of the family of the defendant residing with him, or that a copy thereof be affixed upon some conspicuous part of the house in which he generally resides and another copy to the Court-house of the Village Munsiff.

Mode of service when defendant evades service.

26. Whenever it may be necessary to serve the summons upon a defendant beyond the local jurisdiction of the Village Court, it shall be forwarded to the Munsiff, who shall cause it to be served as if it had been a summons issued by himself and shall then return it to the Village Court together with a report of such service. Such report shall be *prima facie* evidence of the facts stated therein.

Mode of service when defendant is beyond local jurisdiction of Court.

27. If a defendant does not appear in person or by agent on the day fixed, and it is proved that the summons was duly served at least two clear days before the date of hearing, the Village Court may proceed *ex-parte*.

Procedure if defendant does not appear.

If it is not proved that the summons was duly served, the Village Munsiff shall issue a fresh summons.

28. Every summons served under this Regulation otherwise than by the village servant shall be served at the expense of the party on whose behalf it is issued and the amount of fee leviable for such service shall be fixed by Government from time to time and shall be levied by the Village Munsiff in such manner and subject to such rules as may be prescribed in that behalf by Government.

Process to be served at expense of party issuing.

29. If, on the day fixed for the defendant to appear,—

(1) neither party appears, or

(2) the plaintiff does not appear and the defendant appears and does not admit the claim, or,

(3) the summons has not been served owing to the plaintiff's default and the defendant does not appear,

the suit shall be dismissed unless the Village Court, for good and sufficient cause, otherwise directs.

Procedure where plaintiff does not appear and defendant does not admit claim or where summons is not served through plaintiff's default.

30. If the plaintiff does not appear but the defendant appears and admits the claim wholly or in part, the Village Court shall pass judgment against the defendant in accordance with such admission, and where part only of the claim is admitted shall dismiss the suit so far as it relates to the remainder.

Procedure where plaintiff does not appear and defendant admits claim.

31. (1) Whenever a suit is dismissed under clause (1) or clause (3) of Section 29, the plaintiff may bring a fresh suit, and if within the time allowed by the law of limitation the plaintiff satisfies the Village Court that he was prevented by any sufficient cause from appearing, the Court shall set aside the dismissal and shall appoint a day for proceeding with the suit.

Setting aside order under Section 29 on cause shown.

(2) When a suit is dismissed under Sub-Section (2) of Section 29 or partially dismissed under Section 30, the plaintiff shall be precluded from bringing a fresh suit in respect of the same cause of action, but he may within the time

Setting aside order under Sections 29 (2) and 30.

allowed by the law of limitation apply for an order to set aside the dismissal and if he satisfies the Court that he was prevented from any sufficient cause from appearing, the Court shall make an order setting aside the dismissal and shall appoint a day for proceeding with the suit.

Setting aside *ex-parte* decree against defendant.

32. Any defendant against whom a decree has been passed *ex-parte* may, within the time allowed by the law of limitation, apply to the Village Court to set it aside; and if satisfied that the summons or notice was not duly served or that the defendant was prevented by any sufficient cause from appearing, the Court shall set aside the decree and shall appoint a day for proceeding with the suit.

No decree to be set aside without notice to opposite party.

33. No dismissal or decree shall be set aside on any application under Section 31 or Section 32 unless notice has been served on the opposite party.

CHAPTER V.

Of the Hearing, Withdrawal or Compromise of Suits, and of the Summoning and Examination of Witnesses.

Procedure on appearance of both parties.

34. When the defendant appears, the Court shall ascertain from him whether he admits the claim made in the plaint. If he admits the claim, or if the suit is compromised, such admission or compromise shall be recorded in writing and signed by the parties, and the Court shall pass a decree in accordance therewith. If the defendant does not admit the claim, he shall be required to state his objections either orally or in writing, and the Court may, if it thinks fit, adjourn the case to enable him to file a written statement.

Withdrawal of suit.

35. If the plaintiff wishes to withdraw the suit, he shall signify the same in writing to the Court which shall strike the suit off the file and no fresh suit shall be brought on the same cause of action.

When suit may be settled by oath.

36. If either party is willing to let the suit be settled by the oath of the other, and such other party assents and takes the oath, the Court shall give judgment according to such oath.

Set-off.

37. The defendant may set-off any amount legally due to him by the plaintiff for which he could bring a suit in a Village Court. If such set-off is established, the decree shall be for any sum which finally appears to be due to either party.

Witnesses not present to be summoned.

38. When the defendant's statement has been made, the Court shall proceed to examine the truth of the claim, and shall summon the witnesses cited by either party who are not present.

Summons to witnesses how served.

39. Any witness residing within the jurisdiction of the Village Court may be summoned verbally or in writing. Any witness residing within 5 miles beyond the Court's jurisdiction may be summoned in writing, and such summons shall be served through the Village Munsiff within whose jurisdiction he resides, or if for such place there is no Village Court, through the patel of the village in which the witness resides. If any witness resides more than 5 miles beyond the jurisdiction, the Court may call on the parties to frame written interrogatories and shall forward such interrogatories with a letter to the Village Munsiff or if there is no Village Court for such place, to the Amildar or Deputy Amildar within whose jurisdiction the witness resides, and such Village Munsiff or Amildar or Deputy Amildar shall forthwith summon and examine the witness upon the interrogatories, and shall return his answers to the Court in which the suit is pending.

Interrogatories.

40. A summons may direct the party summoned either to appear and give evidence or to produce or cause the production of a document.

Summons to appear and give evidence or produce document.

41. Witnesses summoned by a Village Court to give evidence or to produce a document shall, except for reasonable cause, be bound so to attend and give evidence and produce or cause the production of the document summoned.

Liability of witnesses to attend and give evidence or produce document.

42. Women who, according to the customs and manners of the country, ought not to be compelled to appear in public, persons exempted from personal appearance in Court, and any person who, by reason of sickness or bodily infirmity, cannot attend without serious inconvenience, shall not be summoned; but when the evidence of any such person is necessary, the Village Court shall examine such person at his or her residence.

Exemption of certain persons from personal appearance.

43. Witnesses shall be examined in open Court on oath or affirmation, but it shall not be necessary for a Village Court to take down depositions of witnesses in writing.

Examination of witnesses.

44. If it appears likely that the parties will settle the matter amicably, or for any other sufficient cause, the Village Court may adjourn the hearing to a day to be fixed in the presence of the parties or in cases in which the defendant does not appear, in the presence of the plaintiff. If, on such day, the parties or any of them fail to appear, the Village Court may proceed to dispose of the suit in one of the modes prescribed in that behalf by Sections 29 and 30, or make such other order as it thinks fit.

Adjournment in view to amicable settlement or for other cause.

CHAPTER VI.

Of the Decree and its Execution.

45. When the parties or their agents have been heard, and the evidence on both sides considered, the Village Court shall pass such decree as may seem just, equitable and according to good conscience.

On conclusion of hearing, Court to pass decree.

46. The decree shall contain the number of the suit, the names of the parties, the particulars of the claim, the names of the witnesses examined, the titles of the exhibits read, the decision thereon, and the reasons for such decision. It shall specify the sum of money adjudged, the movable property to be delivered, the sum to be paid in default of delivery, and the amount of costs to be paid and by what parties and in what proportions such costs shall be paid.

Contents of decree.

The decree shall be dated on the day on which it is passed, and signed by the Village Munsiff. When the suit has been heard by a Bench, the decree shall be signed by the members of such Bench concurring therewith. Each party shall be entitled to receive a copy of the decree on application.

47. In suits for money, the Village Court may decree interest on the sum decreed not exceeding 12 per cent per annum from date of suit till date of payment.

Decree may award interest or order payment by instalments.

When a Village Court decrees the payment of a sum of money, it may direct that it be paid by instalments, with or without interest at the above rate.

48. The decree shall be executed by the Village Court which passed it or by a Village Court or Munsiff to whom it is sent for execution under the provisions hereinafter contained.

Court by which decree may be executed.

49. If the decree is for any specific movable, it may be enforced by the seizure of the property, and its delivery to the decree-holder. If the seizure of the property is not practicable, the decree shall be executed by enforcing payment of the sum decreed as an alternative.

Decree for specific movable how executed.

Payment of money under a decree or other adjustment to be made or recorded in the presence of the Village Munsiff.

50. All money payable under a decree passed by a Village Court shall be paid to the decree-holder or his agent specially authorized in writing, in the presence of the Village Munsiff whose duty it is to execute the decree; but if the decree is otherwise adjusted to the satisfaction of the decree-holder, the nature of such adjustment shall be recorded in writing, and signed by him or his agent in the presence of, and attested by, such Village Munsiff.

Such payment or adjustment shall be endorsed by the Village Munsiff on the decree, and recorded in the register of suits mentioned in Section 7.

No payment under a decree, and no adjustment of a decree in whole or in part, shall be recognised, unless it has been made or recorded in the manner prescribed by this section or in the Court of the Munsiff.

Judgment-debtor not to be arrested nor immovable property attached.

51. Except where the decree is executed by a Munsiff, no judgment-debtor shall be arrested and no immovable property attached in execution of a decree of a Village Court.

Attachment of movable property.

52. On the application of the decree-holder, the Village Court shall attach any movable property within its jurisdiction belonging to the judgment-debtor pointed out by the decree-holder to the value of the sum payable under the decree: provided that the following properties shall not be liable to such attachment, *viz.*:—

(*a*) the necessary wearing apparel, cooking vessels, beds, and bedding of the judgment-debtor, his wife and children, and such personal ornaments as, in accordance with religious usage, cannot be parted with by any woman;

(*b*) tools of artizans and, where the judgment-debtor is an agriculturist, his implements of husbandry and such cattle and seed-grain as may in the opinion of the Court, be necessary to enable him to earn his livelihood as such;

(*c*) books of account;

(*d*) stipends and gratuities allowed to pensioners of the Government or payable out of any service family pension fund notified in the official Gazette by Government in this behalf, and political pensions;

(*e*) the salary due to a public officer or to any servant of a Railway Company or local authority;

(*f*) the pay and allowances of persons to whom the Indian Army Act, 1911, applies and of those belonging to the Mysore Military Forces;

(*g*) the wages of labourers and domestic servants whether payable in money or in kind;

(*h*) the arms, horse, clothes, equipments, regimental accoutrements and necessaries of the members of the Mysore Military Forces;

(*i*) where the decree relates to a debt due or contracted by an officer who has insured his life under the rules in force relating to the Mysore State Life Insurance, any bonus payable or paid thereunder to such officer or in the event of his death to his nominee or other person or persons entitled to such bonus under the said rules;

(*j*) any amount payable by the Military Department to the members of the Mysore Military Forces out of a retiring fund.

Explanation I.—The expression Mysore Military Forces occurring in this section shall have the meaning given to it in the Code of Civil Procedure, 1911.

Explanation II.—The particulars mentioned in clauses (*d*), (*e*), (*f*), (*g*) and (*j*) are exempt from attachment or sale whether before or after they are actually payable.

Attachment when property is in possession of the judgment-debtor.

53. If the property is in the possession of the judgment-debtor, it shall be attached by actual seizure and the Village Munsiff shall provide for its safe custody. It may be left in the custody of the judgment-debtor upon sufficient security being given in writing for its production

when required. On default, the decree may be executed against the surety to the value of the property not produced.

Attachment when such property is not in possession of the judgment-debtor.

54. If the property is not in the possession of the judgment-debtor, the attachment shall be made by a written order prohibiting the person in possession of the property from giving it over to the judgment-debtor.

Debts how attached.

55. Debts and moneys due to the judgment-debtor shall be attached by a written order prohibiting the judgment-debtor from recovering the debt or receiving the sum of money and the debtor from making payment thereof, until the further order of the Village Court. Nothing in this section shall be held to authorize a Village Court to attach or sell a debt charged on immovable property.

Private alienation of property after attachment to be void.

56. When an attachment has been made by actual seizure, or by a written order, any private alienation of the property attached, whether by sale, gift, pledge or otherwise, and any payment of the debt to the judgment-debtor, during the continuance of the attachment, shall be void as against all claims enforceable under the attachment.

Investigation of claims to attached property.

57. If any claim is preferred to property attached in execution of a decree, the Villags Court shall investigate the claim, and if it appears that the judgement-debtor has no saleable interest therein, such property shall be released from attachment.

Sale of attached property.

58. As soon as posible after attachment, the Village Court shall fix a day not less than fifteen days from the date of attachment for the sale of the property attached, and shall cause a written proclamation of the intended sale to be fixed outside the Court, and such sale shall be further proclaimed by beat of drum previous thereto.

Proviso.

Provided that (1) with the consent in writing of the judgment-debtor, or (2) when the property seized is subject to speedy and natural decay, or (3) when the expense of keeping it in custody may exceed its value, the Court may, after giving due notice by beat of drum, sell the attached property at any time within fifteen days from the date of attachment. In such case, the Court shall hold the sale proceeds subject to the provisions hereinafter made for payment of moneys attached in execution of decrees.

Procedure in sale.

59. On the day fixed for the sale, the property shall be put up for sale by public auction in the presence of the Village Munsiff and sold to the highest bidder. The price shall be paid without delay and in default the property shall again be put to sale.

On payment of the purchase money, the Court shall grant a receipt for the same, and the sale shall become absolute.

Any loss on resale shall, at the instance of either the decree-holder or judgment-debtor, be recoverable from the defaulter as if a decree had been passed against him for the same.

Powers to adjourn sale.

60. Any sale advertised under this Regulation may, at the discretion of the Court, be adjourned to a specified day, public notice thereof being given in the manner prescribed by Section 58.

Village Munsiff and other officers not to bid for or buy property sold.

61. No Village Munsiff or other officer having any duty to perform in connection with any sale under this Regulation shall, either directly or indirectly, bid for or acquire any property sold at such sale.

Stoppage of sale on tender of debt and costs.

62. Every sale of property under this Regulation shall be stopped if, before the lot is knocked down, the amount due under the decree and the cost attending the sale are tendered to the Village Munsiff.

Division of proceeds of sale.

63. Out of the moneys realized in execution, the cost of execution shall first be defrayed and then the amount due to the decree-holder. Any surplus which may remain shall be paid to the judgment-debtor.

Property actually seized to be delivered to purchaser.

64. When the property sold is one of which actual seizure has been made the property shall be delivered to the purchaser.

Delivery of property to purchaser in other cases.

65. When the property sold is in the possession of any person other than the judgment-debtor, or is a debt due by any person to the judgment-debtor, delivery thereof to the purchaser shall be made by a written notice to such person, prohibiting him from delivering possession of the property or paying the debt to any person except the purchaser, and whatever right the judgment-debtor had in such property or debt at the time of attachment shall vest in the purchaser.

ansfer of decree for execu- to Munsiff.

66. On the application of the decree-holder, a Village Court which passed a decree may, if the decree cannot be fully executed by itself, transfer it for execution to the Munsiff who may execute the same as if it were a decree passed by itself, or may transfer for execution to the Court of any other village in which the ndant is represented to have movable property. Such Court shall proceed as if decree was passed by itself.

unsiff may withdraw execu- of any decree.

67. It shall be competent to the Munsiff to withdraw for just and sufficient cause the execution of any decree from any Village Court and to execute it himself, as if it were a decree passed by himself.

CHAPTER VII.

Miscellaneous.

on death of party to suit ication is made, legal repre- ative of deceased may be red on record.

68. If a plaintiff or a defendant dies before decree is passed in the suit, the name of his legal representative may be entered in his place on the record on the application of the opposite party or of such legal representative, but the legal representative of a deceased defendant shall not be answerable for any decree that may be passed on the value of the assets derived from him and not duly accounted for.

no application made, suit to ismissed.

69. If no such application is made within sixty days from the date of the death of the plaintiff or defendant, the suit shall be dismissed, and no fresh suit shall be allowed to be brought on the same cause of action.

more than one plaintiff or ndant, suit to proceed at in- ce of or against survivor.

70. If there be more plaintiffs or defendants than one, and any of them dies and his representative is not joined as aforesaid, the suit shall proceed at the instance of the surviving plaintiff or plaintiffs or against the surviving defendant or defendants.

decree-holder dies his legal esentative may be substituted.

71. If a decree-holder dies before the decree has been fully executed, his legal representative may apply to the Village Court to substitute his name as the decree-holder in the place of the deceased, and if the Court is satisfied after ing notice to the judgment-debtor, that the applicant is the legal representative he deceased, it shall substitute his name on the record as the decree-holder.

judgment-debtor dies, decree be executed against his legal esentative.

72. If a judgment-debtor dies before the decree has been fully executed, it may be executed on the application of the decree-holder against the legal representative of the judgment-debtor to the extent of the assets derived from him and not duly accounted for.

Revision by Munsiffs of proceedings of Village Courts.

73. The Munsiff may, on a petition being presented within sixty days from the date of any decree or order of a Village Court by any party deeming himself aggrieved by such decree or order, set aside such decree or order, on the ground—

of corruption, gross partiality, or misconduct of the Village Court; or

of its having exercised a jurisdiction not vested in it by law, or otherwise acted illegally or with material irregularity; or

that the decree or order is clearly unjust or contrary to law;

and may pass such other decree or order as he thinks fit;

provided that no decree or order of a Village Court shall be set aside without notice to the opposite party.

Pending disposal of any such petition, the Munsiff may stay execution of the decree or order.

A petition under this section may be entertained after sixty days by the Munsiff if he is satisfied with the cause shown for the delay.

Except as provided in this section, every decree and order of a Village Court shall be final.

Munsiff may, and in certain cases shall, report to District Judge.

74. Whenever under Section 73 the Munsiff sets aside a decree or order, he may report the case to the District Judge, and shall report every case in which he sets aside a decree or order on the ground of corruption, gross partiality or misconduct.

Power of Chief Court to prescribe forms and of District Judge, Deputy Commissioner and Munsiff to inspect records.

75. The Chief Court may, from time to time, prescribe forms for use in Village Courts and the returns which they shall be bound to submit. The District Judge or the Deputy Commissioner or the Munsiff may at any time call for and inspect the registers and records of Village Courts.

Exemption of plaints, etc., from payment of Court Fees.

76. Notwithstanding anything contained in the Mysore Court Fees Regulation, 1900, no plaint, petition or vakalatnama presented to a Village Court shall be chargeable with any fee under the said Regulation.

M. VISVESVARAYA,
Dewan.

Revised draft Legis 26-09-1

GPB—500—19-9-13

G.R.S. 48]

PoC No. 376

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE.
GENERAL AND REVENUE SECRETARIAT,

Enc. one packet. *Dated Bangalore,* 18. 11. *1913.*

FROM Signed by Mr D. M. Narasimha Rao

K. R. SRINIVASIENGAR, ESQ., M.A.,
Secretary to the Government of His Highness the Maharaja of Mysore,
General and Revenue Departments.

To

P. B. WARBURTON, ESQ., I.C.S.,
First Assistant to the Hon'ble the Resident in Mysore.

Sent separately SIR,

I am directed to forward herewith, ~~copies~~ six copies of ~~with nine spare copies~~, each, of the Regulations noted in the margin and to request

The Mysore Muzrai Regulation, VI of 1913.
The Mysore Village Courts Regulation, VII of 1913.
The Mysore Excise Regulation Amendment Regulation, VIII of 1913.

) you to be so good as to forward one copy of each of them to the Government of His Highness the Nizam as usual.

I have the honor to be,

Sir,

Your most obedient servant,

17/11

For Secretary to Government.
(absent from the station)

Enclosures one packet.

B.V.N.